

COMMISSION OF INQUIRY INTO THE
USE OF DRUGS AND BANNED PRACTICES
INTENDED TO INCREASE ATHLETIC PERFORMANCE

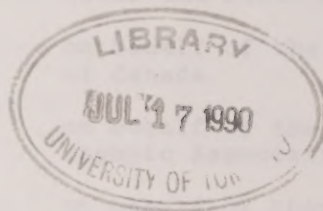
B E F O R E :

THE HONOURABLE MR. JUSTICE CHARLES LEONARD DUBIN

HEARING HELD AT 1235 BAY STREET,
2nd FLOOR, TORONTO, ONTARIO,
ON WEDNESDAY, JUNE 14, 1989

VOLUME 59

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C O U N S E L:

R. ARMSTRONG, Q.C. Ms. K. CHOWN	on behalf of the Commission
R. BOURQUE	on behalf of the Canadian Track and Field Association
J. DePENCIER	on behalf of the Government of Canada
D. MANN	on behalf of the Canadian Olympic Association
R. McMURTRY, Q.C. A. PRATT	on behalf of Charles Francis
L. LEVINE	on behalf of Dr. M. G. Astaphan

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--- Upon commencing.

THE COMMISSIONER: Mr. Armstrong.

MR. ARMSTRONG: Yes, thank you, Mr.

Commissioner. Our next witness is Mr. Bernd Heller, and
5 he is present and ready to be affirmed.

BERND HELLER: Affirmed.

--- EXAMINATION BY MR. ARMSTRONG:

10 THE COMMISSIONER: Thank you, Mr. Heller.
Mr. Armstrong.

MR. ARMSTRONG: Fine, thank you, Mr.
Commissioner.

15 MR. ARMSTRONG:

Q. Mr. Heller, you come from West Germany,
and you were born in Dillenburg, West Germany, on May the
8th, 1947. Forgive my pronunciation --

A. No, that's correct.

20 Q. -- of your birth place?

A. That's correct.

Q. And I understand that after your early
education, you first studied at the University of Berlin
in 1966?

25 A. Yes.

Q. And you then moved from the University of Berlin to the University of Mainz in West Germany. And you graduated from the University of Mainz in 1971 having studied law?

5

A. Yes.

Q. And I understand, Mr. Heller, that before actually qualifying as a lawyer in Germany, there is a two-and-a-half-year period where you decide which course you are going to take, either as a lawyer or a prosecutor or a judge, a little different than we are accustomed to here. And you made the wise decision that you were going to pursue the course of just an ordinary journeyman lawyer and --

10

THE COMMISSIONER: What's your point, Mr.

15

Armstrong.

MR. ARMSTRONG: I think the audience has it.

MR. ARMSTRONG:

20

Q. In any event, after two-and-a-half years of training with a lawyer in West Germany, you indeed qualified as a lawyer in 1973?

A. Correct.

25

Q. And you are still a lawyer today. You practiced law in Mainz, where you had your own legal

practice until 1986?

A. Correct, yes.

Q. Then in 1986 you sold your practice?

A. Yes, correct.

5

Q. While you were both studying to become a lawyer and practicing as a lawyer, you had another career going as a freelance broadcaster starting in about 1971; is that so?

A. Correct, yes.

10

Q. And indeed since 1978 in West Germany you have been a commentator with the national TV broadcasting network ZDF in West Germany.

A. West Germany is located in Mainz.

15 Q. Yes. In that position as commentator you in particular have been a commentator for track and field?

A. Yes.

20 Q. And I also understand that from February of 1980 you have been involved in a Saturday night show on this same TV network which is the most prominent, if I can put it that way, sports --

A. Thank you.

Q. -- show in West Germany.

25 THE COMMISSIONER: What do you say about that?

THE WITNESS: Pardon me?

THE COMMISSIONER: Do you agree?

THE WITNESS: Yes, agree. I said thank
you.

5

MR. ARMSTRONG:

Q. All right. And I understand, Mr.

Heller, that indeed in your position as a broadcaster
covering the track and field season that a year or so ago
10 you did a documentary, for example, on Ben Johnson that
was televised in West Germany, is that so?

A. West Germany right before the Olympics
last year.

Q. When Mr. Johnson was in West Germany in
15 February of 1988 and injured his hamstring muscle for the
first time, the following evening he was a guest on your
Saturday night show?

A. Yes, I was presenting the show.

Q. As well as most recently having this
20 broadcasting career since 1971, you have come to this
career with your own background as an athlete in track and
field, is that so?

A. Yes, that's right.

Q. And I understand that your main event
25 in track and field was as a pole vaulter, but also at one

stage you did the decathlon?

A. Correct, yes.

Q. In 1971, you were second in the pole vault in the German national championships, and between
5 1970 and '72 you were a member of the German national team?

A. Yes.

Q. And I understand that in that period of time your personal best for the pole vault was 5.20
10 meters; the world record at that time being 5.45 meters?

A. Correct, yes.

Q. And in 1972 you were ranked 18th in the world among pole vaulters?

A. Yes.

Q. As well, you told me that you qualified
15 for the Munich Olympics as a member of the West German team, but, unfortunately, about four weeks before the Olympics you broke your finger and you were unable to compete?

A. That's right.

Q. Then, unfortunately, your track and field career ended in 1972?

A. That's not was the reason. It was the reason that I was becoming a lawyer in '73 and I think you
25 will have the understanding that you have such busy that

you can't be able to compete in pole vault.

Q. It's different here, we are not very busy here. So, as well, during the course of your athletic career ending in 1972, you competed without using performance enhancing drugs or steroids?

A. Yes.

Q. Then, I take it, it is fair to say, that you have covered the track and field scene in particular in West Germany and Europe since about 1978; is that so?

A. Not only in Germany and Europe, you can say all major events worldwide.

Q. Indeed did you cover the 1984 Olympics in Los Angeles?

A. As a commentator.

Q. West Germany did not go to the 1980 Olympics?

A. To the 1980, yes, to Moscow.

Q. They did or did not?

A. They did not.

THE COMMISSIONER: I am sorry, did not go to which one?

MR. ARMSTRONG: The Moscow Olympics in 1980 --

THE COMMISSIONER: Yes.

MR. ARMSTRONG: -- was the Soviet boycott.

THE COMMISSIONER: Right.

MR. ARMSTRONG:

5 Q. Then, of course, you covered the Seoul games in last September 1988?

A. Yes.

10 Q. And we have heard much in this hearing of ours about the track and field world championships in Helsinki in 1983 and then again in Rome in 1987. Did you cover those world championships in your position --

A. Yes.

Q. -- as a broadcaster?

A. Yes, I did.

15 Q. Then we have heard much in our evidence about what we call the European tour, both the indoor meets in the winter months and the outdoor meets during the summer months. And in your position I assume that you must cover all of those meets that occur regularly in
20 Western Europe?

A. Not all of them, it depends a little bit at what time they are. And normally we are covering all those major events, if they are on the weekend, Friday Saturday, and Sunday because we have regular broadcasting
25 in sports on those days. And if they are, for example, in

Lausanne, just giving an example to you, Lausanne is one of the major events in West Germany it is done on Monday evening every time and therefore we don't cover it because we don't have broadcasting time for sports at Monday evening.

Q. What about Switzerland, the meet in Zurich that one often hears about, is that --

A. I have covered it several times.

Q. Yes. And you find yourself as well in Great Britain, I understand you covered the Commonwealth games in Edinburgh in 1986. Also I think you told me that when you leave here this afternoon you are on your way next week to Birmingham --

A. Birmingham, yes.

Q. -- to a track meet in Great Britain?

A. Great Britain, United States, U.S.S.R. and West Germany.

Q. Now, I am going to in a few minutes ask you some questions about particular situations in Western Europe, but I wonder if I could just ask you some questions first of all about the organization of sport in West Germany.

We had considerable evidence here about how the sport system is organized in Canada, and for comparative purposes it is might be helpful to the

Commissioner if I could just give us a snapshot, a little photograph, of the organization of what we call amateur sports or Olympic-type sports in West Germany.

Could you take a moment and just --

5

A. I try to do it. The sport organization in Germany is to be seen absolutely independent of the state. It is an organization constructed on the base of many, many clubs we have over there in Germany. These are not private clubs as I have got to know it here in the United States, I don't know how it is in Canada.

10

THE COMMISSIONER: They are not private clubs?

THE WITNESS: Not private clubs.

THE COMMISSIONER: All right.

15

THE WITNESS: It's public and open to everybody. And you can join such a club. And those club are organized in so-called -- I would translate it by sub-associations. These are we call it Landesverbaende because Germany is a federal state and --

20

MR. ARMSTRONG:

Q. So it would be sort of the regional groupings of these clubs?

25

A. Yes, regional groups, yes. And let me translate it with sub-associations. And these

sub-associations are building the base for the track and field association, for example, or the rowing association or the wrestling association.

Q. All right.

5 A. And all those association are under the roof of the general sports association in Germany.

Q. Before we get to the general sports association can I just take you back to the club level.

10 If in West Germany there is an athlete who is a track and field athlete, does he usually find himself or does she usually find herself exclusively in a track and field club or are the clubs in West Germany do they involve more than one sport?

15 A. No, they involve much more than one sports mostly. We have sometimes clubs they are only one sports, but the most of the clubs they are running a lot of sports. It's gymnastic, as track and field, as soccer. It can be anything of the amateur sports.

Q. All right.

20 A. It's very various.

Q. I understand. So, these clubs will come together, form regional associations, and the regional associations in turn will have representatives on the --

25 A. On the higher level you can say.

Q. -- on the higher level, the national sport federation?

A. Yes.

5 Q. For example, there will be track and field representatives from the regional associations --

A. Correct.

Q. -- on the German track and field association?

A. Yes, this is absolutely correct.

10 Q. Then do you take then representatives from the German track and field association and place one or more of them in what you have described as the general sports association?

A. It is called Deutscher Sportbund. This
15 is the official name, Deutscher Sportbund, German --

THE COMMISSIONER: How is that funded?

THE WITNESS: Well, the sports organizations of each sports, they funded it many years ago, I think 50, 60 years ago. It has a big tradition.

20 THE COMMISSIONER: Right. Where does the money come from to support that group?

THE WITNESS: Everybody who is becoming a member of a club, who has to pay for being a member. It is very low rate. It is sometimes only three or four
25 marks a month, but this altogether it's a lot of money

because in the so-called organized sport in Germany and what we are talking about is the so-called organized sport, they have 21 million members, 21 million members.

5

MR. ARMSTRONG:

Q. In these --

A. In these clubs.

Q. -- clubs or organizations?

A. Yes.

10

Q. Out of what, a population of 60 million?

A. Of 60 million about.

Q. So, one in three West Germans are a member of a sports club?

15

A. One third, yes, you are right.

THE COMMISSIONER: Where does the money come from that funds the general sports organization?

THE WITNESS: Also out of these clubs there.

THE COMMISSIONER: I see.

20

THE WITNESS: Because they have a financial organization which is building up on the base of the clubs and the clubs basically are financing all those organizations.

THE COMMISSIONER: No, but the top one, the general sports organization.

25

THE WITNESS: Yes, as well, as well.

THE COMMISSIONER: It gets money from the clubs, too?

THE WITNESS: Yes.

5 THE COMMISSIONER: I see.

THE WITNESS: They have a special system.

THE COMMISSIONER: There is no government money, there is no federal --

THE WITNESS: No government money.

10 THE COMMISSIONER: All right.

THE WITNESS: No government money.

MR. ARMSTRONG:

Q. All right. Just following up from the questions of the Commissioner, you and I when we were meeting earlier this morning explained there is in fact some sport funding foundation or sport funding body that does at least provide some organization in order to direct funds to the general sport organization, am I right?

20 A. Yes, you are right, but this is an organization which is to be seen separate of the sports organizations.

Q. All right. And again, though, it is a private organization?

25 A. It is a private foundation.

Q. All right. In addition to the funding that is provided by the individual members at the club level who may as you say pay as little as three or four marks a month, are there other sources of funding for the sport system in West Germany?

For example, do you have a lotto or a -- I forget what we -- what is that a raffle or a lotto? Lottery, I lost the word.

A. The money coming out of this -- this is licenced by the state such as gambling, and not only this the money is coming out, but let me explain it on this example.

Such a lotto brings up a lot of money and a little part of it is given to the general sports organization and to that foundation I mentioned before, which is supporting the individual sports.

THE COMMISSIONER: So, the foundation is something separate and apart from the general sports organization?

THE WITNESS: Yes.

THE COMMISSIONER: That is privately funded?

THE WITNESS: Yes, it is privately funded.

THE COMMISSIONER: They in turn contribute money to the general sports organization?

THE WITNESS: No, not to the organization,
to the each sportsmen.

THE COMMISSIONER: I see.

THE WITNESS: They are giving something
5 like scholarships you would say. It is to be seen a
little bit different, but you can compare it with this.

THE COMMISSIONER: To individuals?

THE WITNESS: To individuals.

10 MR. ARMSTRONG:

Q. To individuals?

A. The foundation.

Q. I see, okay.

A. It is called Deutsche Sporthilfe.

15 Q. All right. So, the funds from that
organization then simply go to individual athletes, is
that it?

A. It goes to them, yes.

Q. And then this organization then runs a
20 lottery or lotteries to raise money, it also I think --

A. Not this organization. This is an
organization which is separate again.

Q. Okay.

A. But this is licenced by the state and
25 only a little part of the money they are making it is to

be given to this foundation and to the general sports organization.

Q. All right.

5 A. But this is not only -- the only resources they are getting money. There is something else. For example, we have the so-called sports stamp.

Q. Sports stamp?

A. Stamp, yes.

Q. Yes?

10 A. It means if you are buying a stamp at the Post Office, it's up to you, it's up to your choice. If you are buying a regular stamp to put it on a letter. For example, it costs one mark to send a letter or to put a one-mark stamp on a letter, but you also can buy -- if
15 you have something for the sports, a stamp which costs one marks and 20 or one marks and 30, but the value of the stamp really is only one mark because you can only put it on a letter. Normally you have to put on a one mark stamp. But the addition of 20 or 30 pennies it's given to
20 the foundation.

THE COMMISSIONER: I see.

MR. ARMSTRONG:

25 Q. All right. Then from a financial or funding point of view in Germany, is there any assistance

at all that comes from public funds?

A. No, not at all.

Q. Not at all?

5 A. They only are worrying about the facilities.

Q. Well, I was going to ask you about that. If, for example, you have a track and field training center --

A. Yes.

10 Q. -- or a football field or a gymnasium, who provides those kinds of facilities?

A. Basically they are provided by the clubs, but sometimes the clubs are so small that they cannot afford to have it. So, the local communities are building those facilities. And they get the money from the federal state and from the state overall. And some money, of course, from the club and sometimes the club are owning those facilities for themselves, sometimes they are partly owner of it and so on.

20 Q. All right. And briefly let me just ask you a question or two about the West German Olympic Association.

A. National Olympics Committee.

25 Q. The National Olympic Committee of West Germany.

In broad general terms, who makes up that organization or individual sports, for example, represented?

5

10

15

20

25

A. Well, the members of the National Olympic Committee are elected from the German sports organization. These are people coming out of this organization, and the rules, how they are elected, are put
5 down in a constitution they give themselves, but it is to be seen independent of the state. The state doesn't have the right to send someone in and okay the National Olympic Committee.

Q. All right. Now I want, Mr. Heller, to
10 take a few minutes with you to ask you some questions about drugs in general in sports, and particularly steroids which from time to time has occupied our attention here, and I want to take you back to 1966 or thereabouts when you were at the University of Berlin,
15 because you had told me yesterday afternoon that your first knowledge of the existence of such drugs dates back to that time, is that so?

A. That's correct. There was a time when I was going to study at Berlin and starting my career as a
20 pole vaulter and I was together with some decathlete athletes and we were in a training facility of the university. They have a medical department, and there was a room, a storeroom, just a storeroom and there was packed up a lot of packages, and they had the label on
25 "Dianabol".

Up to this time I never had got to know what is Dianabol. First I thought it was munition for a pistol because Diana is the god of the hunters, but anyway, there was -- someone had picked out this package and there was a
5 prescription on there, and out of this we could see what it is.

I had heard something about anabolics and steroids before, but I didn't have -- only a very rough idea what is going on with it, and on account of the
10 prescription, I've got to know more, and I know that one of my fellows at that time has taken one of those packages. What he has done with it, I don't know exactly, but anyway...

Q. In any event, that kind of for you
15 dates your original early knowledge of the existence of such drugs, and in particular a drug called Dianabol that is, indeed, a steroid.

Now in the late seventies in West Germany, I believe you became aware and are aware of three or four
20 celebrated cases, if I can put it that way, of West German athletes who either tested positively for steroids or admitted their own steroid use, and since that time, it's a subject that you as a sports broadcaster have paid considerable attention to, among other things obviously.
25 Is that so?

A. Yes, that's right, but not only as a broadcaster. I would likely correct the impression that '66, it was my first contact with anabolics and the next one it was '77 or '78. In the meanwhile, of course, as an athlete, we were going to talk about the problems which were coming up in the early seventies, for example, because at that time it was coming up as a big problem already.

And as you know, the IOC and the International Track and Field Association, the IAAF, was setting out doping rules in the mid-seventies. I don't know exactly. I think it was '75. And just on account of this, every athlete has to talk about, to think about what's going on with this because you cannot be not touched by this if they are setting up those rules.

And in '77, the discussion in Germany became public because in that Saturday night show now I'm running, at that time I didn't run it, there was a hammer thrower, a well-known hammer thrower who confessed in the show that he has taken steroids. It was Uwe Beyer. He was a bronze medalist in the Olympics 1964 in Tokyo, and in '71, for a very, very short time, just for one day, he had the world record in hammer throw.

Q. Yes. Could I just ask you to stop for a moment. Just give us his name again, his last name.

A. B-E-Y-E-R. His first name is Uwe,
U-W-E.

Q. Yes, thank you.

5 A. And by this, the discussion in the
public was coming up heavily because Uwe Beyer was a
well-known and famous person in Germany because during his
career and after his career, he was going to become a
movie actor, and mostly movie actors are well-known in the
society and in the public.

10 And therefore his confession in this show
was causing, you can say, nearly a big blowup because in
that show we were going on to continue the discussion
about the use of anabolics and steroids for three
consecutive additions of the show.

15 It was going for a longer time, the
discussion was going on for a longer time in the
newspapers and in the public. There was someone else who
accused the doctors of helping the athletes on this side,
on the other side, telling them that they don't have to do
20 anything with this because it was banned in the meanwhile.
This was, well, the second serious contact or touch with
anabolics to me personally.

Q. All right. And you mentioned Mr.
Beyers being a bronze medalist when in --

25 A. 1964 at the Olympics in Tokyo.

Q. All right. And then he had the world record briefly when?

A. 1971.

5 Q. '71. And when was it that -- and he went on, I think you said, to become a famous movie actor, and when was it that it became known that he had been a user of anabolic steroids?

A. In that show, '77.

Q. In 1977.

10 A. Yes.

Q. So that's when in West Germany the public debate really got going, was it, at that time --

A. Yes.

15 Q. -- as to the use of steroids among athletes. Then you are aware of another case in which indeed you became involved as a lawyer at that time; is that correct?

A. That's correct.

20 Q. And again, I'm not asking you to break your lawyer's oath of confidentiality, that case is a matter of the public record?

A. Yes, it was public.

25 Q. Could you tell us a little bit about this, because it again helps us to hear a little bit of sort of the historical development of this subject on the

other side of the Atlantic.

Could you tell us about that case, please?
Who was it and generally what was involved?

A. It was done a test to a discus thrower.
5 His name is Hein-Direck Neu.

Q. And Neu is spelled?

A. N-E-U. Hein-Direck, if you would like
to get the first name, it's Hein, H-E-I-N dash Direck,
D-I-R-E-C-K.

10 Q. Thank you.

A. And he was tested positive.

Q. And was he a competitor at the national
level?

A. Yes, you can say he belonged to the
15 international class because he was holding the German
discus throw record until last year, and he was German
champion I think at least six or eight times. Six, seven,
eight times. He was champion at that time when he was
tested positive.

20 Q. And when was he tested positive?

A. '78.

Q. '78.

A. And he gave me the order to defend him
in this procedure, but the point of the order he would
25 like to be represented by me not was to deny taking drugs.

This was not a question at that time. It only was there were some formalistic mistakes they have done in the procedure.

Especially at that time the test procedures
5 mostly had a lot of mistakes, and it happens very often at that time that they could object on account of formalistic mistakes the testers have done. We had a first success of the court at that time, but definitely he was suspended for one year.

10 Q. All right. And --

A. And afterward he has continued his career as a discus thrower and setting records.

Q. All right. And then there was another case of which you're familiar in West Germany, again an
15 individual by the name of Walter Schmidt?

A. Yes, he also was world record holder in hammer throwing. Let me have a look in my notes. I can tell you exactly what time it was.

Q. Yes.

20 A. He has set the world record in hammer throwing on the 4th of September, 1971, by 76 metres 40 at that time.

Q. Yes.

25 A. And he also was tested positive in 1977, and he confessed to the public as well that he has

taken drugs because he started a defence for the drugs saying "don't leave us alone because otherwise if you are going to be world class in hammer throw, for example, you cannot be without."

5 This also caused another public discussion.

What does it mean "don't leave us alone," what does it mean "help us". If you are going to be the world class, and then we cannot be or we cannot stay without. Well, I only would like to point out that the discussion was going
10 on at that time.

Q. Yes, all right.

A. And he was suspended in 1977 already.

Q. Now then moving ahead into the 1980's
15 in not only West Germany but western Europe, I assume from your continuing interest in sport and particularly in athletics or track and field, that you regularly in the eighties have come into contact with athletes, coaches, sport officials almost everyday I would assume. Is that fair?

20 A. That's right, yes.

Q. And I take it from your background and
indeed the discussions that you and I have had briefly before your appearing here, that the steroid issue, if I can put it that way, again is something that during the
25 course of the eighties you have observed, studied, watched

closely not only on the international scene but on the European scene closer to home?

A. Yes, yes. Of course.

5 Q. And is it your opinion from your interest and knowledge of this subject that in the 1980's in western Europe, that the use of steroids is, indeed, a significant factor in some sports?

10 A. Yes, you cannot deny that it's a significant factor by the way you only have to have a look on the list which is edited by IAAF, for example, and look at what athletes have been suspended on account of drug abuse in the eighties, and then you will see it's coming up more and more.

15 And another case was coming up in Germany, the case of Ralph Reichenbach. He is still the record holder in shotput with a best of 21 metres 51, and he stopped his career I think in '81 or '82. He never had been tested positive, but he has confessed in the public several times that he has taken drugs, and last time he 20 has done it, this was in our show in January this year.

Referring to the discussion which was coming up at the time, that there is a fraction who is going to do more strict controls, especially in the terms of training on the one side and to the other fraction which 25 is discovering the problem by this, saying that steroids

should be given free because otherwise you would not get equivalent premises for the sports at all.

5 The problem of course would be that this is the opinion of that part of the discussion. They are going to say the premises between the eastern bloc and the western bloc will be pushed into a direction of the eastern bloc on account of the situation that you not will be able to do those controls as you can do over there in West Germany.

10 Therefore I have to tell you that the German sports organization of West Germany has decided already to start strict controls not as an appendix to the competitions in Germany, but also during the terms of training. They think that this first step is a big step
15 in the direction to get control of the drug abuse overall.

 THE COMMISSIONER: When did that start, this new program?

 THE WITNESS: It starts in August this year.

20 THE COMMISSIONER: August of this year?

 THE WITNESS: Yes, and the other fraction of --

 THE COMMISSIONER: And who runs the program? Who controls the testing process, do you know?

25 THE WITNESS: Who controls the testing

process?

THE COMMISSIONER: Well, who's in charge of this new doping control procedure? Each organization itself?

5 THE WITNESS: The organization itself. If the track -- they have decided to point out four organizations, sports organizations in Germany -- you remember probably that there is the German sports organization is the roof of the whole organization, and
10 below them there are a lot of sports organizations. I think about 30.

THE COMMISSIONER: Like track and field. Say, German track and field?

15 THE WITNESS: Track and field is pointed out, for example. They are pointed out four. They have to do it.

THE COMMISSIONER: Which four, do you recall?

20 THE WITNESS: I only know two right now. It's rowing and track and field.

THE COMMISSIONER: Rowing and track and field.

THE WITNESS: The other two I don't know exactly at the moment.

25 THE COMMISSIONER: But we call that random

testing. Is that what you're calling it in Germany,
random testing?

THE WITNESS: I don't understand what you
mean by this, but --

5 THE COMMISSIONER: It's just not after
competition.

THE WITNESS: It's not only after
competition, it's --

10 THE COMMISSIONER: It's when they're in
training?

THE WITNESS: Up to two times a year they
are saying.

15 THE COMMISSIONER: All right. So that
while the athlete's in training, they can go to his place
where he is training? Is that how it works?

THE WITNESS: Yes, that's right. The
controllers are coming in the training camp.

20 THE COMMISSIONER: Random testing, but no
athlete can be tested more than twice a year. Is that
the --

THE WITNESS: Yes, this is following to the
rules they have set for themselves.

25 THE COMMISSIONER: And each organization
would do their own testing, would they? Like track and
field and rowing would do their own?

THE WITNESS: It's not their own testing.
This is done by the laboratories of Professor --

THE COMMISSIONER: No, do they select the
athletes to be tested? Take track and field. Would the
5 German Track and Field Association say well, Heller,
you're going to be tested and they decide to drop into the
training camp and watch you?

THE WITNESS: Yes, they have to organize
it, but those tests will be done by the laboratories of
10 Professor Donike.

THE COMMISSIONER: I see. That's the IOC
lab in Koln?

THE WITNESS: Yes.

15 MR. ARMSTRONG:

Q. So if I could just follow up from the
Commissioner, there are two steps. One is the actual
collection of the sample and all of procedures that goes
with that before it gets to the lab. If you're a track
20 and field athlete, the organization of that is done
through the track and field organization?

A. Yes, that's right.

Q. It's not done by an independent agency?

A. No, no.

25 THE COMMISSIONER: Not by the German

Olympic Committee, for example?

THE WITNESS: No, no, it's done by the organization itself.

5

MR. ARMSTRONG:

10

Q. And I might just ask you this. There appears, at least in some of the information that has come to our attention, that there may be some people who would argue or put forward the proposition that there should be some kind of independent agency, completely independent of the sport, organizing the collection of the samples and so on. Is that a subject of any consideration or debate in Germany?

A. Not yet.

15

Q. For the present time, it is accepted that the appropriate organization to do the first step of the procedure, the collection of the sample and organizing it to send to the lab, is the individual sport organization?

20

A. Yes. I think they feel that it is threat enough for any athlete if they are saying we are going to control it during the terms of training. That might be the reason and the ideas that they don't think about an independent organization who's going to do it.

25

THE COMMISSIONER: And a lab is the IOC lab

in Koln that does the actual laboratory work?

THE WITNESS: Yes.

MR. ARMSTRONG: All right.

THE COMMISSIONER: And who pays for that?

5 THE WITNESS: The organization itself.

MR. ARMSTRONG:

Q. We have heard here, and I doubt that it
would be much different in West Germany, that it's an
10 expensive business to both organize the collection of the
samples and indeed to test them. Will that mean there
will be some kind of special levy at the club level or at
the organization level to fund this out-of-competition
testing?

15 A. This indeed was a discussion during the
last weeks because the German sports organization has
looked out. The sports organization is those who has to
finance it, and they basically have to accept it, but of
course they said how can we do it because we don't have
20 enough money to do it. But anyway, it starts in August
and I can't tell you right exactly who will pay for it. I
think Professor Donike will ask the guy who has ordered it
for the money.

Q. All right.

25 A. But definitely, definitely, the German

sports organization said we must have the money available for this because this is an important aspect of the whole life of sports now.

Q. All right. And --

5 THE COMMISSIONER: What about East Germany? Is West Germany the only country in Europe doing that now? What about France? Do you know anything about France or, say, East Germany?

10 THE WITNESS: East Germany I never have heard something about this. Of course they are doing tests, but not to incriminate their own athletes.

MR. ARMSTRONG:

15 Q. We're going to come to a particular subject on the East Germans.

THE COMMISSIONER: What about the other countries at all? Are you familiar with any of --

20 THE WITNESS: I didn't hear something like this which is already set for such a program. I think the West Germans are the first doing this.

THE COMMISSIONER: What about the U.K.? Are you familiar with what they are doing in the United Kingdom, in Great Britain?

25 THE WITNESS: I don't know anything about this, such a step, if they have decided it up to yet.

MR. ARMSTRONG:

Q. Okay. Then if I could take you back just for a moment to the --

5 A. Excuse me to interrupt you. What I was going to tell you, what they would like to do to have those strict controls in, by this to stop the drug use, I told it to you because Reichenbach is, you can say, the speaker of the other fraction because he says you never will get strict and absolute control of the scene by doing
10 more controls.

"Why?" he is asking and he is saying, "look at me. I have been tested for many, many times and I never have been tested positive."

15 THE COMMISSIONER: Because up until then, only after competition. Previously all testing was done after the competition.

THE WITNESS: Okay, he objected and what is going on with me if I am doing my training camp in Chile, for example?

20 THE COMMISSIONER: In Chile?

THE WITNESS: Yes, for example.

THE COMMISSIONER: No, we've heard that. You move around a bit.

25 THE WITNESS: Yes, the problem will be you probably will never be able to test them all because you

not will be able to get possession of them anywhere and every time.

THE COMMISSIONER: They can go to some other place. The West German athletes could go, say, to some other country and train where there's no testing?

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THE COMMISSIONER: We had that with our weightlifters who would go to Czechoslovakia when we had testing here.

5 THE WITNESS: This, for example, is a very important point how to manage it. Or another point is on account of the financial situation, the general sports organization decided only to do it twice a year as maximum. For example, the draw gives or brings you out being tested in May and June twice, and then it is over
10 for you.

MR. ARMSTRONG:

Q. Yes.

15 A. What is happening to the rest of the time. Or, for example, you will be among them --

THE COMMISSIONER: Why is it just the twice a year? Is that because of the concern, quite understandably, of the athletes' rights, or is it sort of a civil rights issue or?

20 THE WITNESS: This also is an aspect, the question of civil rights because there are some athletes they told it is against the civil rights to be in control in your private sphere any time.

25 For example, one of the speakers of that fraction is the gold medalist in discus throw Dunnalburg,

gold medalist from 1984 and bronze medalist from '88. He said it is a question of dignity.

THE COMMISSIONER: But they are doing it anyway now, are they, the German --

5 THE WITNESS: He has to follow it because otherwise if he is going to refuse --

THE COMMISSIONER: He wouldn't be allowed to compete?

THE WITNESS: Yes. Well --

10 THE COMMISSIONER: But twice a year I guess there would be some reason for that. I was wondering whether that would be otherwise. You wouldn't want it abused and have somebody hauled in every day because --

15 THE WITNESS: Well, the decision to do it only twice a year is --

THE COMMISSIONER: It makes it perhaps not very effective?

THE WITNESS: Yes, but it is to be seen --

20 THE COMMISSIONER: If they are back to back?

THE WITNESS: -- in front of financial aspect. That's the only reason, because you see track and field is a major sport over there in Germany. And we have the members in those clubs who are doing track and field, 25 but not all of them who are doing it on a high standard or

high level, these will be altogether about 600 up to 800.
And you can imagine if you will test 600 or 800 people
twice a year, there is 1600 tests it costs millions.

5

THE COMMISSIONER: I think we do about 1200
a year now in Canada, all after competition.

THE WITNESS: After competition, but this is
to be seen independent of it.

10

THE COMMISSIONER: Just going back, you
said track and field and rowing. Has there been some
experience of use of steroids by rowers?

THE WITNESS: No, not yet, not yet.

THE COMMISSIONER: Do you know why rowing
was selected? I would have thought they are sort of
selecting four trouble spots to --

15

THE WITNESS: I cannot tell you the
motivation of the German sport organization why they have
pointed out track and field and rowing and two other
sports organization. This I can't tell you.

20

I don't know if weightlifting is among them.
I am not informed about this. I wasn't prepared for this,
but it is easy for me to find it out.

THE COMMISSIONER: You will let us know I
am sure. Go ahead, Mr. Armstrong.

25

MR. ARMSTRONG:

Q. Let me just ask you this question, and I think in your dialogue with the Commissioner you may have given it to us and I may have just missed it, but if
5 you have a group of track and field athletes, let's say a 100 track and field athletes who may be subject to testing during training or what we call out-of-competition testing, in Germany, is it possible that in the random draw that while some of them may have their numbers come
10 up twice, they may indeed never get tested in this situation?

A. This might happen. Referring to the system, it might happen.

Q. All right. I think I missed it and perhaps I am the only one who did, but is there -- what
15 are the numbers of tests that are going to be done under this new system?

A. This was discussed on account of the financial situation because the track and field
20 association at the very moment is saying we don't even have money to organize one test now, but we have to do and we are going to do it as far as we are coming now, and then we will see.

Therefore, it is not fixed at an exact
25 number how many they have to do. But basically it is said

do it so that there is a strict control.

Q. All right. Okay. Then we have here, Mr. Heller, heard a significant amount of evidence that the use of steroids in the eighties in what we call the throwing events is certainly prevalent. And there have
5 been various percentages set out, but there is not much doubt that the evidence here is significant.

Would you confirm based on what you have already said, and I take it you would, that in the
10 throwing events in Europe that the situation there is similar to what we have heard here both in Canada and other parts on this side of the Atlantic?

A. I think the scene, the track and field scene, is so international in the meanwhile so that the throwers scene in the United States and Canada us
15 absolutely the same as in Europe for example. So, you can say I believe that throwing events as discus throwing or shot put to become or to get into the world class it's not possible to be done without.

Q. Then, Mr. Heller --

A. By the way, have a look in this list I have mentioned it again. If you look at the names and I will read out the names and you will see 50 percent of all of them who had been suspended on account of --

25 THE COMMISSIONER: What date is that list

you have there?

THE WITNESS: This is edited last year, of the yearbook of IAAF 1988-'89.

MR. ARMSTRONG: Indeed, we will is a
5 break in a few minutes, and we might just --

THE COMMISSIONER: We can --

MR. ARMSTRONG: -- photocopy that list and have it filed.

I am sorry, Mr. Commissioner, I had intended
10 to do that because Mr. Heller gave it to me last night and I neglected to do so, but we will do that.

MR. ARMSTRONG:

Q. One of the significant things about
15 that list, of course, is that all of those positive tests that we will find there when we look at it, they, of course, are all positive tests resulting from tests done during -- or immediately following competition?

A. Yes. And it is amazing to see that for
20 example Swedish discus thrower, Ricki Bruch, who has earned a lot of money telling stories to the journalists about his experience with anabolics and steroids, he is not on the list there. I was surprised very, very much when I have checked the list, because in the scene he had
25 the nickname anabol-mountain and you can imagine what it

means.

THE COMMISSIONER: What was the nickname?

THE WITNESS: Anabol-mountain.

THE COMMISSIONER: Yes.

5

THE WITNESS: He was a worldclass discus thrower in the seventies and in the beginning of the eighties --

MR. ARMSTRONG:

10

Q. Indeed, he is still competing at the present time?

A. Sometimes, sometimes.

Q. Yes.

15

A. I think he is my age and I can't imagine to compete in discus throwing getting up to the world class --

THE COMMISSIONER: I would never concede that.

20

MR. ARMSTRONG:

Q. All right.

A. But anyway, he is not on the list --

Q. Not only is he world class, he is a former world record holder, too, is that not so?

25

A. Yes. And he's reported to a lot of

public institutions and newspapers and whatever that he has done -- that he has taken drugs for many, many times on many, many years.

5 Q. Then another sport that we had a look at from the Canadian point of view is weightlifting. You have mentioned it in passing and without asking you to name names or a particular country, but from your experience as a broadcaster and a keen observer of the sports scene in Western Europe, would you confirm that the
10 situation that we have found here is the same situation in Europe, that is that at the international level there is a high degree of use of anabolic steroids among weightlifters?

A. Yes, I can agree with this.

15 Q. Indeed, I think you mentioned to me this morning you said the same thing that you said with respect to the discus and the shot that you can't imagine at the international level people being able to compete without indeed using anabolic steroids?

20 A. Yes.

Q. And that would be your assessment of the European scene?

A. Yes, it is.

25 Q. Then I wanted to ask you a couple of questions, again it might be useful from a comparative

point of view, of what appear to be so far as you know at the sources in particular West Germany for anabolic steroids. Where do athletes get them?

5 A. Basically you cannot buy steroids in the pharmacy without having prescriptions. When I say basically, it is impossible to do it. That means --

 THE COMMISSIONER: Maybe that's what the law is.

 THE WITNESS: Pardon?

10 THE COMMISSIONER: That's what the law says, that's the regulation, is it?

 THE WITNESS: Yes, that's the laws.

 THE COMMISSIONER: All right.

15 THE WITNESS: You can follow to the same it doesn't work if you will get in the pharmacy to buy it without having a prescription you don't get it.

 THE COMMISSIONER: What about doctors administering?

20 THE WITNESS: Doctors. This is also following to the law. If a doctor is prescribing it, then, of course, you can buy it by presenting the prescription. This is the normal way to get medicine over there in Germany.

25 THE COMMISSIONER: Are the athletes getting them in Germany or West Germany from doctors?

THE WITNESS: This is one way. Of course, there are doctors who are prescribing anabolics. And on this way the athletes can get it. But the other way is, of course, the black market.

5

MR. ARMSTRONG:

Q. Can I just stop you there before you go to the black market. Indeed, is it your information from being an observer of this scene that indeed there are
10 doctors in West Germany who do prescribe anabolic steroids for athletic performance purposes?

A. They probably never will state that it is for athletic performances or for the purpose of athletic performances because the argumentation of the
15 doctors is a little bit different.

They are talking about a substitution. If the body is exhausted and has to get regeneration, then, of course, you can help the body by giving him steroids, for example. This is one of the aspects of the use of
20 steroids that you can make shorter the times of regeneration.

By this I only would like to explain it is an argumentation for themselves.

THE COMMISSIONER: I understand.

25

THE WITNESS: Because they know that it is

not allowed to prescribe steroids for an athlete to improve concerning the athlete's performance. So, that they are looking for reason and arguments for themselves to do it and to help.

5

MR. ARMSTRONG:

Q. All right. Now, what about the black market. I had interrupted you there, you were going to mention it.

10

A. There, of course, is I would say a tremendous black market which is coming out of the body building studios. And there is one very, very evident case which happened over there in Germany.

15

The gold medalist in weightlifting 1984, I think it was middle class, Karl Heinz Radschinsky. Radschinsky - would you like to get the name?

THE COMMISSIONER: R-A-C--

THE WITNESS: I will spell it:

R-A-D-S-C-H-I-N-S-K-Y. Karl Heinz. K-A-R-L. Heinz:
H-E-I-N-Z.

20

THE COMMISSIONER: You say "Zee" or "Zed".

THE WITNESS: "Zed", but sometimes I am corrected.

THE COMMISSIONER: In Canada we say "Zed"?

25

THE WITNESS: Okay. Thank you.

MR. ARMSTRONG: You are on the northside of the 49th parallel. So, we insist you say "Zed".

THE WITNESS: I am going to have to look at the map how to --

5 THE COMMISSIONER: I am sorry, I interrupted you.

THE WITNESS: He was establishing and organizing a big black market. And he was discovered and he was prosecuted and definitely sentenced by one year
10 freedom on probation on account of doing this.

That means he is a man coming from the weightlifting scene running, establishing, and organizing a black market for providing the body building studios and having been prosecuted and sentenced on account of this.

15 And he still is back in the weightlifting scene, by the way. And there was a big discussion in Germany if he should be allowed to take part in the Olympics '88 because he came back in very good shape, '88, and definitely the National Olympic Committee decided not
20 to put him into the team.

MR. ARMSTRONG:

Q. Now, you made an interesting observation to me yesterday about what -- I don't know how
25 exact the information might be -- but there appeared to be

you said since the Seoul Olympics on the black market a
increase in demand for Stanazolol. Is that --

A. Yes.

Q. -- your understanding?

5

A. Yes. This was let me say amazing to me
to get to know this because Stanazolol was not so
well-known in the scene of the black market in the body
building studios up to this big blow up in Seoul we
experienced when it was published that Stanazolol was
10 found.

And, therefore, right after this it was
reported in German newspapers. I did not investigate it
by myself, but I believe that what is reported there in
the newspapers that on the black market in the body
15 building studios, especially this stuff Stanazolol, was
asked very, very much at that time. And the increase of
the turn over concerning Stanazolol was getting up
tremendous.

Q. Now, I know, Mr. Heller, from your
20 background and particular interest, your prime focus
appears to have been track and field, but looking perhaps
at other sports in Europe from your knowledge of the
sports scene generally is the -- let me ask you this: is
the use of anabolic steroids a factor, at least a factor
25 in sports such as wrestling, do you believe, in Europe?

A. Well, all that I can report about other sports, of course I don't have those informations I have about the track and field scene.

Q. Yes.

5

A. This only is on account of talking with colleagues of mine. We are 70 reporters in our TV station, sports reporters only, and you can imagine everybody is responsible for his part of the sport, any sports.

10

And we are talking about it and as informed as I am in the track and field scene, another one is informed about the cycling scene or the wrestling scene and so on.

15

And out of those discussion, I have to think of a nearly similar situation in several other sports as for example in the track and field season.

Q. Yes. Would you indicate what those other sports might be from the discussions you have had with your professional colleagues?

20

A. Especially the cycling scene, because the cycling scene is that scene which has the most or the biggest tradition in doping, not only in using steroids, but in doping overall. And maybe you in Canada will not watch the cycling, the professional cycling scene as seriously as we are doing it over there in Europe because

25

the major events in the professional cycling scene take place over there in France and Italy, Giro Italia or Tour de France. And we had a lot of doping cases over there in cycling. And also using steroids.

5 THE COMMISSIONER: What about Olympic cycling? Was there any experience in Olympics?

THE WITNESS: Well, the amateur sports, the so-called amateur sports is to be seen a little bit different especially regarding to the cycling scene because -- well, the cycling scene, the professional cycling scene is one of that's professional scene which has the most tradition because it's going on in Europe already for 40, 50 years you can say, while other sports not have been professionalized like this scene for such a long time.

10

15

And therefore there is big difference. Every time of the sports is becoming more professional or professionalizing then those aspects, as for example, doping are coming up much more.

20

MR. ARMSTRONG:

Q. I understand. But at what we would call the amateur level in cycling, do you believe that it is also a factor --

25

A. It is a factor, but it is not

comparable with the factor which it is for the professionals.

5 Q. Professionals. You mentioned wrestling at the amateur level. Have you also from your discussions with your colleagues concluded that it is a factor in wrestling?

A. Yes, it is a factor. We had our first case now in the alpine scene.

THE COMMISSIONER: Yes, I read that.

10 THE WITNESS: This was Christelle Guignard from France. She was suspended now on account of drug abuse. It was steroid.

MR. ARMSTRONG:

15 Q. Yes?

A. She took part in the world championships over there in Vail, became bronze medalist in -- let me think -- it was I think giant slalom, I am not quite sure.

20 THE COMMISSIONER: That was very recent, wasn't it, that that happened?

THE WITNESS: It was recent in February. She was suspended for one year.

25 THE COMMISSIONER: I just read about it the other day.

THE WITNESS: But I think this is the first time that we had --

THE COMMISSIONER: We had an alpine skier?

THE WITNESS: -- an alpine skier. But
5 this is also a question since what time they are doing those tests and how they are doing it. Because in the German soccer team, we never had a test positive, but don't ask me why because I think the test they are doing it's not qualified enough to find out any time an athlete
10 who has taken steroids.

By the way, they are running those tests just one year.

THE COMMISSIONER: In soccer?

THE WITNESS: In soccer in Germany.

THE COMMISSIONER: That's something new
15 then, is it?

THE WITNESS: It's new for that scene.

THE COMMISSIONER: For soccer?

THE WITNESS: Yes.

THE COMMISSIONER: Does Dr. Donike do all
20 the testing for all the sports events in West Germany?

THE WITNESS: I think so. I don't have --
sometimes it happens that they are using the facilities of other institutions, but I would say overall more than 90
25 percent are tested --

THE COMMISSIONER: Are done by his lab.

THE WITNESS: -- yes, are done by his lab.

MR. ARMSTRONG:

5 Q. All right. Then, I take it it would be
a fair observation to make from all you have just said
from your knowledge of this subject dating back to your
first experiences with it in the sixties, kind of tripping
over it, that in the eighties in Europe anabolic steroids
10 are certainly not on the decline so far as the use is
concerned. It is prevalent, and is it fair to say
becoming more prevalent from your observations?

A. Yes. I think so that it is coming up
much more than in the seventies. As far as I can see, and
15 as I watch it, is a big increase in the numbers of uses,
of steroid uses.

THE COMMISSIONER: In the various sports?

THE WITNESS: I would reduce it especially
on the track and field because if I give you some more
20 details now in numbers or so then I only can talk about
the track and field scene.

THE COMMISSIONER: Right.

THE WITNESS: What I am knowing overall this
is more general.

25 THE COMMISSIONER: All right.

MR. ARMSTRONG:

Q. Now, I wanted to take you to another subject. One of the issues that has kind of bubbled up during the course of our Inquiry here is a concern for standards that athletes must meet in order to become a member of Canada's national team or to become eligible for funding in our program that we have here.

Also there's been an expression of concern about standards in order to be eligible to compete in certain international meets. And the argument seems to go this way that in order for athletes to meet a particular standard for whatever reason, whether it's competition or funding or whatever, they are being invited to meet a standard that appears to have been established through the use of steroids.

Q. And has that issue arisen on your side of the Atlantic and particularly in West Germany?

A. This is a very important point because the argumentation of the athletes concerning the drug
5 discussion in the public mostly was that the pressure which is taken on them was given and made by the officials while they are setting up qualification standards for international championships which are such high, thus high, so that you cannot reach them without.

10 I will give you an example. You probably will know that to compete in the Olympics, it is necessary to qualify either by reaching a so-called "A" qualification or a so-called "B" qualification. That means a nation who is going to send three athletes to the
15 Olympic Games concerning the track and field scene, I'm talking now, a nation who is going to send three athletes to the Olympic Games, they must have reached the so-called A qualification. This is the highest qualification standard you have and you know.

20 If a nation only is going to send one of them, then he has to reach at least the so-called B qualification, and there is some other nations who only have three or four participants for track and field overall and they are allowed to send their athletes
25 without having any qualification, but there is only three

or four athletes overall in all 41, 42 events of track and field.

Now, what's going on in Germany. As the demand, as the officials are saying or the public is going not to take part, as Pierre De Coubertin had said any time but it is to win the medal, they have pushed up the qualification standards for the German athletes if they are going to qualify for the Olympics.

That means not only the A qualification had been reached, it had been reached at a higher level, a qualification mark which is set by the National Olympic Committee. I give you an example. It's not referring exactly to the qualifications then, but for example, if the IOC A qualification for shotput is exactly 20 metres, the A qualification, the German NOC, National Olympic Committee, says a German athlete who would like to take part has to reach at least 30 metres and 80 so that he has a chance to be in the final. That means to be among the best eight.

Q. Yes.

A. It is not issued and said that exact way because if you are talking with an official as me, for example as a journalist, what does it mean, the chance to be qualified for the final because noone can foresee where it will be exactly the line that you will become eighth or

ninth.

They are saying we never talked about the final qualification, but we have our ideas where it is to be ranked. Okay, then 20 metres and 80 you have to get to be qualified.

There is, for example, a shot-putter in Germany who did not qualify on this higher qualification standard of Germany, but he has reached the A qualification. And this guy, for example he talked to me, he said this is the point they are taking pressure on us. What does it mean if an international qualification standard of the International Olympic Committee, which is high enough for a shot-putter by 20 metres, is not enough to qualify myself for the Olympic Games? I have to reach more. How could I do this.

Q. Right.

A. And now the consequence or the conclusion out of this is a very, very important point because starting the discussion in public now concerning the drugs in Germany and following to the rules they gave themselves to do those controls in the term of training. On the other hand, they said, we will put down the qualification standards in future.

And the public was laughing because by this, the officials were confessing and admitting that the

qualification standards they had before only were to be reached by using steroids in particular events. I wouldn't like to say overall, but in particular events.

5 Because the conclusion is when you are saying we are going to do more against drug abuse by establishing more tests and controls in the terms of training, it is such a big threat to the athlete that they don't go on by drug abuse. But if they don't go on in drug abuse, they cannot reach such a high-level as we have
10 demanded from them up to now. And therefore we have to go down.

 And now the discussion starts in Germany, especially led by the top leader of the German General Association is Mr. Hansen, saying we, the German Sports
15 Association in Germany has to explain to the public that our athletes in future are not going to be the top athletes in international championships, not going to win medals, but they are going to become 8th, 10th, 12th or whatever.

20 And this is interpreted by journalists by the public and that, we are saying, is the confession that the officials already exactly knows what is going on in the scene because otherwise there is no motivation to put down the qualification standards. It's not decided yet,
25 but it's a discussion and it's a prediction of the

officials saying we have to go down with the qualification standards.

Q. And when we are talking about qualification standards here, are these not only
5 qualification standards for a young German athlete to be on the Olympic team, but a young German athlete to compete in, say, the European championships as well?

A. For example, yes. The same. The same procedure.

10 Q. All right. And you say the discussion -- I'm sorry.

A. By the way, for qualifying for the European championships, there also is a qualification standard given by the EAAA, the European Athletics
15 Association, and this qualification standard is comparable with the A qualification standard from the IOC I spoke about before, and we have another qualification standard concerning the European championship which is higher.

Q. All right.

20 A. Which was higher. Correct, you have to say because expecting that what's coming up then, it will be lower.

Q. Now you say that this discussion is going on now about the reality of having to lower the
25 standards, if you are going to have an out-of-competition

testing program. Does there in the discussion at the point it's at in West Germany, is there yet a consensus developing of an acceptance that if we, Germany, are going to compete internationally, we indeed have to accept that we won't be winning the number of gold medals that we have in the past at European championships or at the Olympics?

A. The problem will be the big break in the argumentation. Because the motivation for having higher qualification standards in past time was for the officials saying the demand of the public is we have to have winners on the one side. That's the reason why they have put up the qualification standards so high.

And now they are going to say we don't want to have the winners, but we would like to have the clean athlete, and if you are going to promote the winners for 40 years, it will give you a big problem to argument just in the other way from one day to the other day.

Q. I see, so --

THE COMMISSIONER: That's the argument that's going on I think?

THE WITNESS: Of course.

THE COMMISSIONER: And it has not been resolved yet?

THE WITNESS: No, it's not resolved.

THE COMMISSIONER: That is whether you're

going to lower the standards because obviously there is the determination now to make German athletes clean by the testing, right?

THE WITNESS: Right. The slogan in Germany
5 now is to have the clean athletes, not the winners.

THE COMMISSIONER: We will take a short break now.

MR. ARMSTRONG: All right. Thank you.

10 --- Short adjournment.

--- Commission resumed.

THE COMMISSIONER: Mr. Armstrong.

15 MR. ARMSTRONG:

Q. Thank you, Mr. Commissioner. I wanted then, Mr. Heller, to ask you about the situation in the Eastern bloc, particularly East Germany. On the IAAF list that - I apologize I haven't yet photocopied but I'll get
20 it --

THE COMMISSIONER: Excuse me, Mr. Nunn. Would you get me a photocopy of that.

MR. ARMSTRONG:

25 Q. I'm sorry, I just overlooked it again.

There is I think in the IAAF of all the athletes who are listed there in the various countries, there is only one East German athlete.

A. As far as I know. I could check, yes.

5

Q. And what is your understanding of what the East German situation is so far as testing and in particular monitoring of athletes is concerned? If you don't know what I mean by the use of that word, is there some screening or testing of athletes before they go into an international competition?

10

A. Yes, this is -- you probably will know that this is a delicate thing, the relationship between East and West Germany basically.

Q. I understand.

15

A. And it's not easy to get over from East Germany to West Germany or it's impossible basically, but sometimes it happens that there is a refugee who was belonging to the East German national team the past time or in present, and doctors are over there, masseurs or some other staff people. And from those ladies and gentlemen, we are getting to know something about the practice.

20

Let me introduce to the fact that every East German athlete will be tested before he is allowed to leave the country to compete in any international

25

championship.

Q. I see.

A. That means if he is tested positive at home, he will not be allowed to get through. And let me
5 give you two examples, one to East Germany and the other to Eastern bloc, which give you the chance to a conclusion.

Slupianek, a shot-putter, a female shot-putter --

10 Q. All right, let me just stop you there and we'll get the spelling of her name. That's her last name and it is spelt?

A. Last name is Slupianek, and it is S-L-U-P-I-A-N-E-K.

15 Q. And her first name?

A. And known as well under her former name Briesenik, but she married Mr. Slupianek and then she has got his name Slupianek. This I'm only mentioning because she was suspended under the name of Briesenik and came out
20 as Slupianek.

Ilona is her first name, I-L-O-N-A. She was tested positive 1977. It is called the only accident in East Germany at that time overall. And she was suspended for one year. Referring to the rules at that time, it was
25 only one year instead of two years they are going to

suspend them now, and the first competition she was able to do after being allowed to take part in the competitions were the European championships 1978, in Prague, Czechoslovakia.

5 Q. So this would be her first competition after the one-year suspension was over?

A. Yes.

Q. Yes.

A. And she won the gold medal, and there,
10 of course, the discussion was coming up how can it be that at that time the drug tests were coming up that everybody must be afraid of testing in the time before championships or during those qualification competitions or wherever else. Not Slupianek because she was out of control for
15 that year because she was not allowed to take part in any competition and she was back on the scene and has won the gold medal.

And afterward - I've taken these notes out of my records - she was going to set new world records in
20 shotput; the first by 22 metres and 45 on May the 11th, 1980, and the second it was -- I'm sorry, I have to turn it around. Starting with 22 metres and 36 on May the 2nd, 1980, and nine days later, she improved it to 22 metres and 45. It was on May the 11th.

25 Okay, it's up to you to make the conclusion

about this, because I cannot incriminate Slupianek in that way saying she was going on to take drugs, as she has done it before. I can state of course she has done it before because there was a positive test.

5 Q. Yes.

A. This is one aspect.

Q. And I'm sorry, when she tested positive in 1977, what was her personal best at that time? Do you know what she was throwing at then?

10 A. I can't tell you exactly her best at that time, but it's obvious that it must be less than the 22 metres and 36. She set the new world record in May 1980.

Q. Yes.

15 A. I guess -- I'm sorry, I don't have it, but I guess and I remember quite well when I am saying it was in the twenties. That means 20 metres and something else, getting the gold medal in 1978. That means she improved after this time for about more than one metre.

20 Q. Yes.

A. And it's a lot on this level.

Q. Yes. All right. I think even I have the conclusion that one might draw from that. Now, you --

25 A. Let me tell another aspect concerning the Eastern bloc. This doesn't concern East Germany, but

this concerns the situation of the team of the Soviet Union 1986 in regard to the European championships in Stuttgart. You know as it is handled world-wide in regard to those international championships, there is fixed a
5 date. Up to now, you have to announce all the participants who are going to compete for their country.

Q. You file your team list?

A. To file the team list.

Q. Of who's going to appear within what,
10 four, five, six weeks of competition?

A. Roughly about, yes.

Q. Yes.

A. This was done for the European championships by the Soviet Union as usual, and when they
15 came over to compete, it was a big surprise for all of us that about 25% of the whole team was absent. Okay, you can speculate now. It's just from speculation, but it's not very apparent that 25% have become ill on account of a cough or something like this.

20 The speculation of course goes in that way that they had been tested, as the East Germans, before they are leaving their country and they had been tested positive and therefore they didn't go to the European championships where they had to be afraid of being tested
25 on the international level and having been afraid of being

suspended.

And let me tell you something else which is only understandable if you will be able to understand the relations of the society of East Germany. Let us come
5 back to the case of Slupianek. If a member of an East German national team would have done or would have taken drugs by his own, on his own decision, not covered by the will of the association, as, for example, Slupianek. Imagine Slupianek would have taken drugs by her own
10 decision.

Q. Yes.

A. She never, she never would have had the chance to be back in the national team. The conclusion for us all is, of course, that this drug abuse done by
15 Slupianek in '77 which brought us the positive test only can be made by the common will of the association; the coaches, the officials on the one side and Slupianek on the other side. And this, I'm going to point out the big difference between the Eastern and Western bloc because in
20 the Western bloc, it's up to every athlete if he is going along with drug abuse or not --

Q. To make an individual decision.

A. This is an individual decision, but in the Eastern bloc overall, I would say, basically it's not
25 an individual decision.

Q. It's really a state decision or team decision by the officials in charge?

A. Yes, this is the conclusion.

5 Q. All right, those are all the questions I have for you, Mr. Heller. Some of the other lawyers may have questions.

THE COMMISSIONER: Mr. Bourque, do you have any questions? --

10 MR. ARMSTRONG: Oh, I'm sorry. A third time. Can I just --

THE COMMISSIONER: You're holding this back from me I think.

MR. ARMSTRONG:

15 Q. Let me give back your copy and this, Mr. Heller, is the most recent list published by the IAAF of the people who have tested positively for drug taking at competition.

20 All right. Can we have that marked as the next --

THE COMMISSIONER: We don't need this as an exhibit. It'll just be for my file. We don't need an exhibit.

25 THE WITNESS: By the way, there are some prominent names on the list. For example, sometimes those

names are not considered in those procedures. Lyudmila Andonova, for example, she was the former world record holder in high jump for women, and she was tested positive in '85, some months after she had set the world record.

5 THE COMMISSIONER: Which one was that?

THE WITNESS: Lyudmila Andonova. The list is split in men and women, and she has position two, number two in women that have been caught.

THE COMMISSIONER: From Bulgaria?

10 THE WITNESS: From Bulgaria. And Ilona Briesenik, this is, see, Slupianek. And there is another lady in the middle part about Zdenka Silhava from Czechoslovakia. She was tested positive in 1985, and one year later she set a new world record in the discus throw.

15 THE COMMISSIONER: Which one was that?

THE WITNESS: Zdenka Silhava.

THE COMMISSIONER: Yes, I see it. She was tested when?

THE WITNESS: Underlined. ' 85.

20 THE COMMISSIONER: And she competed again when?

THE WITNESS: One year later. No, at that time it was 18 months later.

25 THE COMMISSIONER: And then she broke the world record then?

THE WITNESS: Yes.

THE COMMISSIONER: In what specialty, in what sport?

THE WITNESS: Discus throw.

5 THE COMMISSIONER: Discus throw.

THE WITNESS: And, for example Nadyezhda Tkachenko from the Soviet Union, she was European champion in pentathlon at that time. We didn't have heptathlon, we had pentathlon up to '78, and right after this event, she was tested positive.

10

THE COMMISSIONER: This would only be those who tested positive, I noticed, in competitions because we have others here who are not on the list.

THE WITNESS: No, no other tests we had at that time. And Anna Verouli on the list there from Greece, she became champion, European champion in javelin throw 1982 and tested positive in 1984. I underlined her family name.

15

THE COMMISSIONER: I see that. Thank you. All right. Thank you, Mr. Armstrong.

20

MR. ARMSTRONG: Thank you.

THE COMMISSIONER: Mr. Bourque.

---EXAMINATION BY MR. BOURQUE:

25 Q. Thank you, sir. Mr. Heller, my name is

Roger Bourque. I represent the Canadian Track and Field Association which would be the Canadian equivalent of the West German National Association that you have spoken of. With respect to the out-of-competition testing program
5 that your national association is implementing in August 1989, may I ask you what are the provisions relating to notice to the athlete under that program? Are you aware of those?

A. Yes. As far as I have got to know it
10 up to now, it is handled like this. The athlete will be informed two days before the test will be done, and so he has to prepare himself and have to announce where he is staying two days later so that the control team can get the urine sample from him. And it means if he refuses it
15 or saying I don't do it, he will be treated as someone who had been tested positive or similar to this.

Q. I understand, and I wonder if you're aware of the reasons why your association elected to adopt a two-day notice period to the athlete?

A. Well it has a reason which is to be
20 seen in the organization, because you cannot know where the athlete is staying the day after tomorrow, for example, so you have to announce it to them to get to know exactly where the controllers have to go too.

Q. I understand now. The persons who will
25

be collecting the urine sample under the West German out-of-competition testing program, will they be volunteers or full-time and paid?

5 A. Oh, I'm sorry, this I can't tell you.
If they are employed at the track and field association or if they are employees or freelancers for Donike's lab, this, I don't know.

10 Q. So you wouldn't be able to speak to the effect that that might have on the ability of the West Germans to reduce their notice period under their program to a no-notice testing?

A. Yes, yes.

15 Q. Now are you aware, sir, that at this time, the IAAF is attempting to implement an out-of-competition testing program?

20 A. I know that they are going to change it, and it concerns also a problem how to or how successful they will be in the future with their drug tests because the point is we have seen it just yesterday.
I think he was the gentleman who asked Ben Johnson how many times he had been tested and he has passed the test by so-called negative tests, and this indeed on the one side must be a big surprise when you have high qualified labs and not being able to bring out a positive test if
25 they are doing it 28 times in three years.

A. I think you reported eight or ten or nine tests yesterday, but I have got to know that Ben Johnson had been tested 29 times during the last three years.

5 Q. It underscores the importance, I am sure you will agree with me, of out-of-competition testing?

A. Yes.

10 Q. Now, with respect to the IAAF out-of-competition testing program, are you aware when the impetus for that program arose?

15 A. Well, the impetus to this program probably came from the case of Ben Johnson because this -- I think this was the most shocking scandal worldwide which we have experienced. It's amazing to get to know that there were about 50 athletes worldwide had been tested positive in the past time, and no one is worrying about it saying like this.

20 And now the case of Ben Johnson is the big case which is coming up. Of course, your inquiry here is doing a lot to push it more to the public and to get along with this discussion.

25 And I think this is one aspect for the impetus for the IAAF to think of the whole procedure to test, to continue to test, and to do more tests.

Q. You say it probably came from the Ben Johnson test. I take it then you don't know as a matter of fact where the out-of-competition testing --

5 A. Well, who knows it exactly because this is up to the decision of the IAAF Council. And, of course, no one is a witness of the decision coming up out of the IAAF and EAA Council.

Q. So, if I were to suggest to you that the out-of-competition testing program presently being
10 implemented by the IAAF arises as a result of a resolution passed in May 1987 on a motion by the Canadian Track and Field Association; you are not aware of that, I take it?

A. Of course I have heard about it, but this is a resolution without any concrete results up to
15 now, because --

Q. Right.

A. -- the IAAF cannot oblige someone to do how they would like to do them.

Q. All right. Now, just still on the
20 subject of the IAAF, I note that the list which has been put into evidence is a list of suspensions after failing drug tests. And I note as well that you have pointed out in your evidence that athletes have made public confessions in Europe about steroid use and yet do not
25 show up on this list.

Is it your understanding that at least in Europe that there is a feeling that there must be a positive drug test before a suspension can result in the eyes of the associations there?

5 A. I am sorry, I didn't get the last part of your question. If?

 Q. Is it, taking into account your view and your knowledge of the European scene --

 THE COMMISSIONER: Well, Mr. Bourque is asking you if somebody goes on your program and admits that he is taking steroids.

10

 THE WITNESS: Yes.

 THE COMMISSIONER: And there is no action taken against someone unless he fails a test at some subsequent event, is that what happens?

15

 THE WITNESS: No, no, the consequence out of being tested positive in those tests I have mentioned before which are done by the German track and field association will bring out the exact same consequences as if he had been tested in regard to an international --

20

 THE COMMISSIONER: Suppose he just goes on your program and said "Well, I broke the world championship last week, but I want you to know, Mr. Heller, that I have been on steroids for five or six years and I am on them right now getting ready for the --"

25

THE WITNESS: Nothing happened up to now because as everybody know in the scene of jurisdiction from my understanding it works like this if someone confessed mm.to having done a crime, the public prosecutor
5 has to prosecute him.

THE COMMISSIONER: Right.

THE WITNESS: But in the scene of Germany concerning the sports and drug abuse, nothing has happened up to now because there is no obligation for any authority
10 or commission to go ahead.

And I can tell you something right before I came over here to Toronto I had a talk with an official of the German track and field association, particularly concerning this point. And I asked him are you going to
15 do something against Reichenbach, for example, because he has confessed just in January this year that he has taken drugs and he still is the record holder.

This I was asking regard to the reports I have read coming out from IAAF that they are going to take away Ben Johnson's world record he has set in Rome. And
20 because I am asking parallel to this you should go on and pick up Reichenbach's record as far as he is going to -- as far as he has stated that he has taken drugs at this time.

25 And this is amazing to get to know what

answer I have got because they told at the very moment they are looking for a record that at that time had been taken a drug test of Reichenbach, and if it would be negative then it's over and it's okay.

5 This is exact the same situation we have all over the world because you know that a lot of athletes are passing drug tests every time, every time, and they never have tested positive inspite of taking drugs.

10 That means on the one side you are knowing this guy has taken drugs, and on the other side you have a drug test which is negative. And now the German track and field association prefers to be back or behind the negative drug test to say to the public we all have done what is possible.

15

MR. BOURQUE:

Q. And so no suspension will accrue even though the athlete may have made a public admission of steroid use?

20

A. Yes.

25

Q. Now, in April 1987, we have heard over here a West German athlete, a heptathlete, by the name of Birgit Dressel who passed away. And I would assume that you as a journalist are quite aware of the circumstances surrounding her death. There was quite a bit of public

exposure of the facts.

A. This is a case which not fits in the I would say ordinary scene of drug abuse.

5 She has died on account of a so-called, I hope that is the right expression, allergy shock. It was caused by the fact that she had been treated by several doctors with a lot of medicine. Among those medicine there also were steroids. These altogether were reacting in a chemical way and caused the death of this girl.

10 Q. Is that the conclusion of some Board of Inquest, a medically-qualify Board of Inquest in West Germany?

A. It might be. There is an expert statement edited and ordered by the German track and field association which says a lot, but there is also -- it was 15 a big report in a political magazine called Spiegel, and they were listed up the medicine she has taken up. I think it was an amount, a sum, which was unbelievable. She has taken more than 200 and something else medicines 20 during the last one-and-a-half years, prescribed by several doctors.

And the most problem out of the expert's view at the final conclusion of him was that they didn't get -- the last treating doctor didn't get to know how 25 they had been treated before. And he was injecting

something for heavy pain she had in her back at that time,
and this might have been caused the so-called allergy
shock.

5 I didn't mention it before because I think
this case doesn't fit so well in the ordinary steroid
scene.

MR. BOURQUE: Thank you, I have no further
questions.

10 THE COMMISSIONER: Thank you. Have you any
questions, Mr. DePencier?

--- EXAMINATION BY MR. DePENCIER:

15 Q. Mr. Heller my name is Joseph DePencier
and I am here representing the Federal Government, and, in
particular, Fitness and Amateur Sport Canada.

I would like to draw on your knowledge to
help us with some more details of the West German system
so that perhaps the Commissioner may make some comparisons
between the Canadian system.

20 First of all you described a scholarship
program for athletes, and I believe you indicated that the
source of the scholarships was the general sports
association?

25 A. Not quite that. We have -- I mentioned
the so-called sports foundation, it's called Deutsche

Sporthilfe. They are providing money for individuals.
When I was saying like your scholarships --

THE COMMISSIONER: Right.

5 THE WITNESS: -- then I don't mean that it
is to be seen in connection by visiting a college or a
university. This payment is begun to everybody who is
qualified in the sense of their levels or rankings. An
independent, if he is educated anywhere else or if he is
visiting an university or a school, he --

10 THE COMMISSIONER: It's not linked to any
university training or school?

THE WITNESS: No, no, no.

THE COMMISSIONER: Is it enough to support
the athlete for the year? How --

15 THE WITNESS: How much it is?

THE COMMISSIONER: Yes, what would it be --

20 THE WITNESS: It depends. It is -- as
more -- as higher you rank in the list as more you get.
The maximum at the moment is about a thousand marks a
month. But you not only get the payment, you also get for
example, cars. You get free medical treatment. You get
vacations paid and something like this.

MR. DePENCIER:

25 Q. And the source of these additional

items, is that also the foundation or do those come from the sporting bodies?

A. No, this is only the foundation.

5 Q. I see. And so the purpose of these programs given that it is a graduated system depending on your ability is to permit athletes to train full time?

A. Yes. You can say most of those athletes who are provided with money up to the highest level of thousand marks, they are full-time athlete.

10 And by the way I can tell you something else. If someone has --

THE COMMISSIONER: What's the mark?

THE WITNESS: The mark, the relation?

THE COMMISSIONER: To Canada today?

15 THE WITNESS: To Canada it's a little bit less than -- one Canadian dollar is about -- no, one mark is about 60 Canadian cents.

THE COMMISSIONER: The mark is worth 60 cents Canadian?

20 THE WITNESS: Yes, about.

MR. DePENCIER:

25 Q. And I take it that the athletes receiving this support are generally -- would be your national team athletes or your national and international

caliber athletes?

A. Yes, this you can say. They are together in groups in so-called A group and B group. A group is the international class and B group mostly the junior class and national level.

Q. And is there any separate support that it would enable an athlete in these groups to attend university or college or other education?

A. Yes. We have clubs they are providing athletes with money as well. For example, we have big clubs which are established in connection with the big industry of Germany. For example, Bayer Leverkusen. This is the big chemical industry over there, and they are running you can say a company club.

Q. And the company itself is spending money for their are athletes or they give them the chance to work. Mostly they are constructed in that way that there exists an employment, but they don't have to do the job full time, sometimes two hours a day, sometimes four hours a day, sometimes nothing.

Q. The clubs related to companies or industries, are those the type of clubs you were describing earlier which are organized on a local level?

A. No, this is not typical. This is extraordinary if there is such a big club in connection

with the big industry.

The 21 or 22 million peoples which are organized in the clubs in Germany, they are coming out of many, many small clubs which are established nearly in each village you can say.

Q. So, the company clubs may sponsor individual athletes, those deserving of it?

A. Yes.

Q. Would the local clubs also have similar forms of encouragement or sponsorship?

A. Sometimes, but it's very seldom.

Q. I would like to just move on now if you could help me with the system which trains and prepares and supports your national team athletes.

Aside from the club systems you have described, are there separate facilities and separate programs relating to particular national teams, say your national track and field team?

A. Well, sometimes, but not so much. It is a question how you organize it. We don't have a national team in that sense that every time the national team is staying together, because the interests and the facilities are so different in the various events of track and field so that they mostly are split. The throwers are together, the sprinters are together, the long-distance

runners, they have training camps in Southern Europe. The throwers are coming to California sometimes or mostly in spring time, and the sprinters mostly also in Southern Europe.

5

Q. Aside from travelling together for training camps and competitions, would your national team athletes be training at a daily basis at their own clubs.

10

A. Yes. At their own clubs. And coached by their coaches which are residing at their place they are living mostly.

Q. I take it then that individual national teams do not have their own dedicated training facilities?

A. No, they don't have them.

15

Q. Now, I would like to move quickly to the question of schools and universities.

As you may know in Canada, there is a fairly active sporting system associated at the school and university and college level. Is there a similar system in Germany that produces athletes?

20

A. No, no it's absolutely different to Germany. I know your system and the system of United States that especially the activities in track and field are coming out of the universities.

25

In Germany, you can say most of the athletes in the track and field scene are students, that's right,

but this is to be seen absolutely independent from the question if the university itself is doing anything. The university is doing nothing.

5 Q. I see. I would like to move now to the subject of coaching, if you could assist me.

 You have described your system for athletes. How are coaches trained and educated in West Germany?

 A. Mostly it is a very personal coaching. I already mentioned that the coaches of the athletes
10 mostly are living at that place, the athletes are at home. So, they are staying together day for day.

 And we have some coaches which are employed at the track and field association. They have the great overview, and they are travelling around and watching what
15 they are doing at their homes.

 So, that basically you can say the main -- the main coaching is coming out from the coaches at the homes of the athletes.

 Q. At the club level?

20 A. At the club level, yes.

 Q. Would those coaches be volunteer coaches or paid?

 A. They are paid, but very less.

 Q. So, it is a part time job for them,
25 perhaps?

A. Yes. Sometimes they only get 500 marks a month or so.

Q. Then there is a separate group, perhaps a highly specialized group of coaches, at the national
5 team level?

A. Yes. They are employed at the national track and field association.

Q. Is there a system of certification of coaches in Germany?

10 A. Yes. You have to graduate at the university to become a so-called Diplom Sportlehrer. And mostly only the supervisors, those you have mentioned before employed at the track and field organization, I cannot say they must be but regularly they are as
15 qualified as I have pointed out.

And the other coaches, well, they don't have to have any qualification, but definitely only those surviving who are qualified enough, anyway. Anyhow they are qualified.

20 Q. Do the coaches particularly at the national team level have responsibilities for discouraging or preventing drug use by their athletes?

A. Well, you can imagine that coming out of such a close contact between athlete and home coach as
25 we are saying, it is very apparent that if there is a drug

abuse that it is talked and discussed by them.

I don't think that it is a big part of discussion between the supervisors, that means the -- we call it Vundes trainer, there was coaches who are working for the track and field association and the athletes when they are visiting them, but I am sure that mostly they are knowing about it.

Q. For example, you have mentioned the cases of a number of West German athletes who have tested positive over the years. Has there been discussion about the role of the coaches --

A. Yes, of course.

Q. -- when those athletes have tested positive?

A. Not only a discussion about the role of the coaches, but also about the doctors and all the medical staff which is around an athlete and the roles of the officials. And this I already have pointed out in regard to the questions of Mr. Armstrong concerning the qualification standards and how they are putting pressure on the athletes to go ahead or get along with the problem to qualify themselves for international championships.

Q. Have there been cases of coaches being disciplined because of the positive tests of their athletes?

A. There is one case, but this is not a pure case disciplined on account of drug abuse.

It was a supervisor/coach or a supervising coach who was employed through the German track and field association. And this relationship had been quitted, and part of this -- is it quitting?

MR. ARMSTRONG: Terminating.

THE WITNESS: Terminating, yes, excuse me, terminating was a discussion that his athletes are on drug programs.

MR. DePENCIER:

Q. I take it then that there is a means in place for at least the national sporting organizations to discipline coaches who it may be discovered that they had an involvement with drug use?

A. This is official line. And as far as as it is official, they are doing like this. And when I am making the stress on the official line, by this I want to say I think and I know that many officials are knowing a lot about the drug abuse, but, of course, if you are attacking with them in the public, they never will tell you anything a word about the drug system and scene.

Q. Does the same problem exist at the club coaching level?

5 A. Well, you see they don't -- for
example, if a club coach is involved in a case of drug
abuse, the German track and field association as an
institution doesn't have the competence or the power to
discipline him because there is no relationship on the
base of jurisdiction.

10 And but I can tell you if a coach seriously
is involved in a case of drug abuse, I think he not can go
on coaching an athlete in Germany, because he will be
effected and incriminated on only account of public
discussion which is coming up out of this.

 Q. And you would hope that the individual
club might deal with a coach whp --

 A. Yes.

15 Q. -- works there?

 A. You see the official line of the German
track and field association is not edict with the line of
the leaders of a club, but basically you can say it is the
same.

20

25

A. I don't know any German club leader who says "I support drug abuse". This doesn't happen.

Q. But I take it you have some concerns about a lack of vigilance or people turning a blind eye?

5

A. Of course.

Q. I would like now on the question of doctors just to ask you some similar questions. For athletes, where are medical personnel and facilities provided? Is it at the club level?

10

A. No. Sometimes it happens in those big clubs as, for example, the company clubs. They have a medical department for themselves, but overall, you can say German athletes in the track and field scene are treated by roughly maximum four or five doctors which have their offices spread over Germany.

15

Q. These are specialists in sports medicine?

A. Specialists. Professor Kluemper, for example, Professor Liesen and Professor Krah1. Four or five names you can say, no more.

20

Q. And these are for injuries?

A. For injuries, yes. What other reason must you have to get to a doctor normally.

25

Q. I take it that if a German athlete for the normal day-to-day medical treatment, perhaps an annual

checkup might have a family doctor or clinic?

A. No, this mostly is done in the office of those doctors and those doctors are mostly paid by the foundation which is providing the medical treatment for the athletes.

Q. So we are now speaking about that elite group of athletes, the 6800 at the top?

A. Yes, but the others, they have to look for any doctor of their trust.

Q. I see. Now for the -- turning back to the group of four or five specialist doctors, are they under any particular duty with respect to drug use to discourage it, to counsel athletes against it?

A. Well, I would like to say that it is any particular duty. The problem is -- let me mention the case of Professor Kluemper. He was in the suspect in drug abuse concerning this case of Birgit Dressel, for example, that this gentleman Mr. Bourque has mentioned before.

There was listed up from the expert in his statement after all what medicine she has got during the last one or one and a half years, and among there were steroids, already I've mentioned, and they were prescribed by Professor Kluemper. And this, of course, caused another public discussion between the track and field association on the one side because they are providing Dr.

Kluemper and Dr. Kluemper on the other side.

And it had a climax, the discussion, when Professor Kluemper refused to get over to Seoul to coach the German national team, and he wasn't over there in
5 Seoul. In the meanwhile, the leadership of the German Track and Field Association has changed because on account of an election which has taken place just four weeks ago, and Kluemper is reinstalled.

Q. So I take it from all of this that it's
10 still very much an ongoing issue about the role of doctors with respect to athletes and steroid use?

A. Yes. This is the regular discussion between the official line they have to go with, the German Track and Field Organization on the one side and then what
15 they are knowing about the whole scene overall. And in that tension and this particular room, you can say, they have to move.

Q. Aside from this case of Dr. Kluemper and his role at Seoul or the fact that he had no role at
20 Seoul, are there other examples of doctors being -- losing their status to treat athletes because of a tie with drug use?

A. No, but by the way, I would like to say in an absolutely correct way concerning Mr. Kluemper. He
25 did not lose his role as doctor-coach or --

Q. He refused to go.

A. He refused to go.

Q. And that was because of --

5 A. Because on coming up the public discussion and getting no support by the track and field association, and now he is reinstalled.

Q. And now you described the case of the East German Slupianek, the problem of being out of supervision for a period of time while she was suspended,
10 and after the period of suspension, she came back, she won the European championship. She went on to set the world records.

Was this the sort of problem that you were alluding to with Karl Heinz Radschinsky?

15 A. No, no, there is no connection between these two cases.

Q. So I take it that even though he was -- I think you said he was prosecuted?

A. Yes, he was prosecuted.

20 Q. Was there ever any evidence that he himself had been using steroids as a weightlifter?

A. Okay, don't scramble it up because Radschinsky is in West Germany and Slupianek is in East Germany, and only on account of this fact you can't
25 exclude any connection between these two cases.

Q. No, I understand that. I take it then that was he, the West German, was he ever suspended or tested positive and suspended?

5 A. No. It's amazing to get to know that someone is dealing those drugs and not being tested positive in spite of becoming a gold medalist in the '84 Olympics.

10 Q. So there was never any question with him being out of supervision for a period prior to the selection for the 1988 Olympic team?

A. No, no. But he must have a strict character only to deal it, not to take it.

15 Q. Now you have described the IAAF sanctions and how they would apply to athletes from any country, including West Germans. If a West German athlete tests positive at an international meet, are there a separate set of domestic sanctions that are applied within Germany?

20 A. Not more than the sanction of the IAAF says itself.

Q. I see. So, for example, would the foundation, would there be any question of the foundation cutting off the scholarship that that athlete might receive?

25 A. That's -- well, let me think of those

cases. I can't tell you exactly because there is another
guy on the list. This is Markus Kessler. He is another
German. Let me see where it is. In the middle of the
list of the men there. He is a long jumper. Markus
5 Kessler. He was tested positive in 1986. This would be
such a case you're talking about, but I'm sorry, I can't
tell you if he still is supported by the foundation or
not. I think if he is qualified enough, he is supported.

Q. I see.

10 A. It's handled like this that someone who
has sanctioned or sentenced on account of doing a crime or
drug abuse in that case, he has got his penalty by being
suspended for one year or two years in the meanwhile and
that's it.

15 Q. And I take it the suspension at the
international level, would that also apply to competition
at the national level within Germany?

A. They are suspended overall. They are
not allowed to do any competition.

20 Q. I see. And during that period of time,
assuming that they still wish to train looking ahead to
the period after the suspension, are they still members of
clubs? Are they still under some supervision in Germany?

A. Yes, members of clubs there is no doubt
25 because the statutes of a club member are not having been

affected by any expense of the IAAF, for example.

Q. So even though they might not participate at the national team program level, if I can describe it like that, they may still be training at the clubs?

A. If there is a national team program, but basically I already told you what they are doing in coaching and workouts. They are doing at home on their own together with their own coaches, and if they want to do it or if they want to continue competing in the track and field scene, of course it's up to them if they continue their workouts at home or not.

Q. Now in West Germany, how are athletes educated about banned substances, about the medical questions, about the ethical questions? Is there a program that --

A. No. You see, --

THE COMMISSIONER: Is there no educational program relating to the ethics and the side-effects?

THE WITNESS: Well, I think there is no need to run a program, for example, to get to know what is going on with the side-effects.

THE COMMISSIONER: The question is is there any such program being done by the national sports organization?

THE WITNESS: No, no.

THE COMMISSIONER: By way of education?

THE WITNESS: No, no. I think they know
that everybody who is in the scene knows exactly what's
5 going on even for a question for side-effects because it's
published so often in German newspapers or TV broadcasting
and everything.

THE COMMISSIONER: About the dangers of
taking steroids?

10 THE WITNESS: Yes.

THE COMMISSIONER: Right.

MR. DePENCIER: Those are my questions,
sir. Thank you very much.

THE COMMISSIONER: Mr. McMurtry.

15

---EXAMINATION BY MR. McMURTRY:

Q. Thank you, Mr. Commissioner. I'm Roy
McMurtry and I represent Mr. Charlie Francis who I believe
you know, Mr. Heller.

20 A. I know him.

Q. And have known him for several years.

A. Yes, you're right.

Q. Just turning back for a moment to Mr.
Radschinsky, who was arrested in, was it 1984?

25 A. No, no, it was later. It was in --

Q. Or he won the medal in 1984.

A. The medal in '84. He cannot be arrested when he has won the medal.

Q. No, I see. And he was charged
5 criminally with distributing steroids?

A. He was charged on a count of dealing drugs. You know, we have a law in Germany that means you as a normal human being are not allowed to trade or to deal those medicines which or you have to get a
10 prescription because those prescriptions only can be done, can be made by doctors.

That means the trade and the deal of medicine is up to the pharmacists and the prescriptions is up to the doctors and no one else is allowed to deal it.
15 And he was charged on account of the fact that he has got those drugs, dealt it to body building studios, especially steroids and anabolics.

Q. Do you remember what the volume that he had in his home was when he was arrested or charged?

A. The volume he is going to deal at that
20 time or --

Q. Well, the volume that they actually found in his home at the time of his charge?

A. I'm sorry, I only could give you an
25 estimate, but I think this doesn't help you and me if --

Q. Well, you had said something to Mr. Francis about it and he was rather impressed by the volume that -- the vast amount of steroids that was in possession of Mr. Radschinsky.

5 A. Oh, I'm sorry, but this I don't remember that I had mentioned any figures concerning this case.

Q. Okay, that's fine. Well, you have obviously had a very unique position to observe the
10 international track and field scene for some years now, beginning as an elite athlete yourself. And of course we have heard, I gather, that the use of anabolic steroids was not banned internationally until 1975, and it's your view that the use of anabolic steroids prior to 1975 had
15 become very prevalent.

Now can you assist us a little bit as to what the attitude of the international track and field community, and I'm not talking at the official now, I'm talking at the coach and athlete level, over this
20 transition period? You have widespread use of anabolic steroids, they become banned in 1975 and obviously a number of athletes have come to depend on these performance-enhancing drugs.

A. It was a scene at that time I would
25 describe by very, very big uncertainty because if you

would have a look on the doping lists which were issued at that time by the IAAF, these lists are much smaller than the list which is issued today.

5 What I am going to say is at that time, they were treated indeed nearly as much medicines as today, but much less were on the lists, so that a lot of athletes were uncertain if they can take this stuff or not, if it is on the list or not, because sometimes it happens that, take the case of Winstrol, for example. Winstrol contains
10 stanozolol, and as far as I know, Winstrol is on the list of doping. Stanozolol in the meantime as well.

 I have a note of the actual list. By this I would like to say it happened sometimes that the name of those medicines are not identified with exactly those
15 steroids which are contended.

 THE COMMISSIONER: Winstrol is a trade name, it's not the drug.

 THE WITNESS: Yes, but --

 THE COMMISSIONER: They don't put trade
20 names in the IOC banned list.

 THE WITNESS: I don't think so.

 THE COMMISSIONER: Winstrol is a trade name.

 THE WITNESS: Yes, of course, but --

25 THE COMMISSIONER: So the IOC banned list

wouldn't say Winstrol. It describes the drug itself.

THE WITNESS: I can have a look on my list and tell you. Is it allowed to have it?

THE COMMISSIONER: Sure.

5 THE WITNESS: Okay, I think I've got this by me. Especially at that time in 1975, for all the athletes it was very difficult to find it out exactly what is banned now and what not.

10 THE COMMISSIONER: I thought that should be the coach telling them that, not the athletes on their own.

THE WITNESS: I think the coaches are not more informed than the athletes. I think mostly the athletes know more about the scene than the coaches.

15 THE COMMISSIONER: No, but they're uncertain. I thought they're supposed to inquire as to what is permissible. I thought that's how it works. Anyway, I interrupted you. Go ahead.

20 MR. McMURTRY:

Q. So we have the banning, the official banning in 1975, and you've already told us about the additions of various drugs to that list over a period of time, but I'm interested in discussing the years
25 immediately following 1975, and you can sort of describe

for us internationally at least in the European context the attitude of athletes and coaches towards this banning insofar as track and field is concerned.

5 A. Well, I'm not able to remember quite exactly details about that time period, and the reaction and the attitudes of the athletes concerning this problem which was coming up now, because getting used to drugs at that time without being afraid of being suspended because you not have done an illegal thing up to 1975 if you have
10 taken steroids, of course life has changed for some athletes.

 Some probably will not have taken further with those drugs, but others tried to do it because the question of the list and the suspense on account of drug
15 abuse is one thing, but the other thing was the question of control at that time because the tests were not as high qualified as they are today.

 So already at that time, you knew that it might happen that you take some drugs which cannot be
20 discovered in the test, and of course, I have got to know by a German newspaper report that, for example, in East Germany, it was traded Turinabol. This is a steroid which you could buy over there in a pharmacy.

 If I'm talking about East Germany, I have to
25 point out again that their system is different from ours,

and what I have told you about the question how to get
drugs in Germany, this is what I said. It's for West
Germany, not for East Germany. Anyway, you could get the
Turinabol in East Germany, it's a steroid and it wasn't on
5 the list.

THE COMMISSIONER: Well, I think I stand to
be corrected. I'm looking at the Sports Canada list of
banned drugs, and when it comes down to it, it says
stanozolol and then in brackets Winstrol and Stromba.
10 Stromba is the name for it in Germany I think?

THE WITNESS: Stromba, yes.

THE COMMISSIONER: Go ahead, Mr. McMurtry.
There is an IOC banned list too which we have here
someplace.

15 MR. ARMSTRONG: You've got it there, Mr.
Commissioner. Exhibit 18 is the --

THE COMMISSIONER: Sports Canada.

MR. ARMSTRONG: But Exhibit 18 is the IOC
banned list.

20 THE COMMISSIONER: Oh, thank you.

THE WITNESS: I have got a list here. If
you are interested in getting to know if it's identical
but I don't think it is --

THE COMMISSIONER: What year are you
25 working on?

THE WITNESS: This is a book published in Germany just in these days.

THE COMMISSIONER: The IOC banned list calls it stanozolol, the one we have here. This is Sports
5 Canada information. It's got stanozolol and it's got bracket Winstrol and Stromba.

THE WITNESS: This list which is printed here contains also related connections and related connections --

10 THE COMMISSIONER: Related compounds, but it has stanozolol right there. Don't you see that?

THE WITNESS: It's on here as well.

THE COMMISSIONER: Go ahead, Mr. McMurtry.

15 MR. McMURTRY:

Q. Thank you, Mr. Commissioner. Well, in any event, the situation was changing somewhat as more and more drugs were added to the list.

A. Yes.

20 Q. And notwithstanding the addition of these drugs, you've told us that insofar as the throwing events and the weightlifting events, that in your view it was impossible, is impossible to obtain world class standards without steroids?

25 A. Okay, that's what is talked in the

scene for many, many years. I would like to give you an example. In shotput they are saying no one is able to get more than 20 metres without, but in the meantime, we have the world record by more than 23 metres.

5 My goodness, what shall I comment this? Maybe you can raise it in the meanwhile and say no one can get more than 21 metres, but anyway, there is the rest of the world class who is doing more than 21 metres and they might.

10 Q. But in your view, in your opinion, and given your knowledge of the international scene, it's your opinion that it is impossible to obtain this world class standard without the use of performance-enhancing drugs?

15 A. Yes, you're right when you are saying it's my opinion on account of my knowledge.

 Q. Yes. And yet at the same time, you have told us, at least as far as West Germany is concerned, there has been a tremendous amount of information made available to the public about possible adverse side-effects with the use of anabolic steroids.

20 A. Yes.

 Q. And I mean, what is your opinion as to the view of athletes and their coaches with respect to -- in these sports with respect to the performance-enhancing assistance on the one hand and the medical risks on the

25

other hand? I mean, this must be discussed rather widely in the international track and field community.

A. Yes, and I'm sure that -- let me go back to my time as an athlete. Already at that time, '69, '70, '71, '72, it was a discussion among the athletes concerning steroids and its side-effects, and I know that it not has changed up to now. Of course I would say it's the most important thing for any athlete, the personal decision if he is going with or not because it affects his life indeed seriously and --

THE COMMISSIONER: There is also an ethical decision too, not just a health decision.

THE WITNESS: For example, yes, and of course you have to make a difference between male and female athletes. The reaction and the side-effects for female athletes are much more serious than for male athletes, as it is reported now.

And I'm very sorry about the fact that every time I'm going to ask a doctor, a qualified doctor who seems to be that he is able to tell me something about the side-effects, they are stating me different reactions or different experiences concerning the side-effects.

THE COMMISSIONER: Well, they are the ones that are prescribing the drugs?

THE WITNESS: Yes.

THE COMMISSIONER: Go ahead.

MR. McMURTRY:

Q. Well, it's obvious from what you've
5 said that many athletes are going to doctors who clearly
are not overly concerned about the side-effects.

A. Yes, you're right. I'm sure that
indeed only a very, very small group, a little group of
doctors really is experienced concerning the question of
10 the side-effects of drug use.

But even that small and little group, they
cannot tell you exactly what's going on because when the
discussion concerning steroids was coming up into the
public heavily some years ago in Germany, I told you
15 already that there was a fraction to say we only will get
control of the whole scene if we will do more strict
tests.

The one side, and the other fraction is
telling give them free the anabolics because otherwise you
20 never will get equal chances to everybody because no at
any time you will be able to have the absolute control.

And by the way, mostly the pharmacy industry
and whoever else who is developing those medicine, they
are quicker, faster than the control labs, and therefore
25 the discussion was coming up set them free or do more

strict controls. But an aspect of the question if you could set free the use of steroids is if there is any consequence of the use of drugs and steroids, and if a doctor would state to me there is a side-effect, that his
5 liver is suffering from this and he has a damage for his whole life, I think there is no space for any discussion to set free drugs, for example.

But this statement you don't get from those experts. Mostly they say it can be on account of that
10 experience we have up to now. We don't think so but we cannot exclude it, and how many centuries we have to wait until an expert will be able to tell us about his experiences because mostly they are hiding themselves behind the fact that steroids are in regular use since
15 maybe only 20 years or 25 years and this is a time period which seems to be not enough for them to get the definite conclusion.

Q. So as the Commissioner stated, there is an ethical problem which relates to cheating and that the
20 health problem, clearly so far as the problem of reducing --

A. Excuse me. I would like to interrupt you. An ethical problem is as far as it is banned, but the question, if you will set it free, then of course it
25 will exclude --

THE COMMISSIONER: No, I understand that.
We're talking about as long as it's banned.

THE WITNESS: I only would like avoid being
misunderstood by this.

5

MR. McMURTRY:

Q. But part of the problem insofar as this
widespread use of anabolic steroids is obviously related
to the fact that there isn't -- there doesn't appear at
least at this point in time to be a solid basis of medical
evidence telling these athletes that they are subjecting
themselves to serious risks.

THE COMMISSIONER: I'm not certain that's
right, Mr. McMurtry. Not from the material I've been
reading.

MR. McMURTRY: I think with respect to the
atmosphere that we're talking about, I think with respect,
sir, this witness is in a position at least to give his
opinion as to somebody who is clearly a student of the
scene.

THE COMMISSIONER: Go ahead.

THE WITNESS: You see, if all that what is
told about the side-effects would be reliable for the
athletes, I could imagine that the reaction and the
attitude of the athletes would be different to that what

25

we are knowing now.

But this indeed is a question of the expert's statement, and I mentioned already that you probably will not find any expert up to this time who is
5 going to tell you clearly and exactly what might be or is the side-effect of the use of drugs, steroids for a longer time or whatever.

THE COMMISSIONER: Well, frankly, it's a basic principle of medicine. You don't prescribe a drug
10 if you don't know what the side-effects are, and if there is a dangerous side-effect, you have to know what the side-effects are before you prescribe drugs. Every doctor immediately looks at the book and says what could go on here. Anyway, we will carry on.

A. This is also part of any prescription which is together with any medicine which is created over there in Germany.

5 THE COMMISSIONER: Exactly. It depends on the dosage and the length of time you take it. That's also --

THE WITNESS: But you see this is more a prescription in regard to the responsibility of the producer. This is I think to be--

10 THE COMMISSIONER: It's the doctor's -- well, the manufacture makes the drugs, and he sets out as much information as they have. I think we are getting far afield, Mr. McMurtry. I don't want to --

15 MR. McMURTRY: I think, with respect -- I say with great respect, Mr. Commissioner, clearly one of the problems is is how does one communicate the medical risk as well as the ethical concerns so far as the Canadian, young Canadian athletes are concerned in Canada.

20 THE COMMISSIONER: Mr. Heller is a very able person and of great competence, he is not a doctor, Mr. McMurtry.

25 MR. McMURTRY: No, but I am not asking for his medical advice, sir. I am just asking for what his view is as to how this is perceived in the international track and field community.

THE COMMISSIONER: I understand.

THE WITNESS: One thing I think should be mentioned right here because the treatment of an athlete by a doctor, maybe providing him with drugs is another
5 thing in relation or in comparing, excuse me, in compare to the treatment of a normal human being.

If you are going to a doctor on account of having any complaints about whatever, you get an advice from a doctor and maybe a treatment in that way that he is
10 prescribing a medicine for you, providing a medicine for you. And if he is serious and responsible enough, he, of course, will point out if there is any risks by experiencing side effects. But the treatment --

THE COMMISSIONER: You know, with all
15 respect, Mr. Heller, the IOC Medical Commission has made a study, and it's being updated all the time, but they say here anabolic steroid use in teenagers --

"... who have not fully developed can result in stunting growth by affecting growth at
20 the ends of the long bones. Their use can produce psychological changes, liver damage and adversely affect the blood lipids -- "
Which leads long time to cardio-vascular illness?

25 THE WITNESS: Yes.

THE COMMISSIONER: All right.

"... and the cardio-vascular system. In males, their use can reduce testicular size and sperm production; in females, their use can produce masculinisation, acne, development of male pattern hair growth and suppression of ovarian function and menstruation."

5
10 So, that I don't quite understand what the discussion is all about. It's all here. I don't know why --

THE WITNESS: I am sorry, sir, when you are right when you are saying I am not a doctor.

15 THE COMMISSIONER: Well, let's get on with something that is more relevant, Mr. McMurtry.

MR. McMURTRY: Well, I think the attitude and the perception, whether it is accurate or not, amongst the international track and field community is relevant, but I will move on to the issue of --

20 THE COMMISSIONER: All right, please.

MR. McMURTRY:

25 Q. Now, you have told Mr. Armstrong about your views with the with respect to the use of anabolic steroids in the throwing events, and the weightlifting

events, and cycling, and wrestling.

What is your opinion with respect to the world of elite sprinting as to the belief in the international track and field community as to the use of anabolic steroids?

A. That scene has increased, of course, concerning the cases of drug abuse.

It is just two months ago that I was speaking a commentary on our Saturday night show. This was right after the hearing of Charlie Francis over here when have I got the reports about his statement, his testimony here.

And as he has stated that Ben Johnson was on drug program since 1981, I was speaking this commentary, and I pointed out what kind of -- or what development the scene of sprints has taken during the years.

And additional to this commentary, we were putting on a picture of Manfred Germar and Heinz Feutera, these were two worldclass sprinters of the fifties and the sixties in Germany. And if you compare their body with the body of Ben Johnson, for example, you must see that there has coming up a lot more in the meanwhile.

And if you look around in the world of sprints, if you are on a training camp or a training field anywhere of the track and field scene and look at the

sprinters of today, you see that there has changed a lot, at least their bodies. Then you can ask why happens it.

You can say they are doing workout seriously or maybe they are on a drug program, but it's up to you what conclusion you are taking out of this.

My personal opinion is the scene of sprint has changed heavily since the sixties and the seventies.

Q. In so far as the widespread use of anabolic steroids?

A. I think so that it is, but this is a belief. I cannot testify as a witness in that place --

THE COMMISSIONER: You heard the evidence that Pat Connolly gave? Do you know Pat Connolly?

THE WITNESS: Yes.

THE COMMISSIONER: She testified before the Senate Committee just a few months ago, about a month ago.

THE WITNESS: Yes.

THE COMMISSIONER: And she's given an estimate of the numbers she felt in Seoul who were on drugs. So, you might look at that, I will send it to you.

THE WITNESS: Yes. Thank you.

MR. McMURTRY:

Q. Are you aware of her estimate?

A. Of her estimate?

Q. Of her estimate as to the use of anabolic steroids?

THE COMMISSIONER: He hasn't read it.

MR. McMURTRY: I didn't --

5 THE COMMISSIONER: I said he hasn't read it.
I am sorry.

MR. McMURTRY: I thought you said you knew him.

10 THE COMMISSIONER: He knew Miss Connolly,
but hadn't read her testimony.

THE WITNESS: No, no, I don't get her testimony, didn't get to know it.

MR. McMURTRY:

15 Q. Now, with respect to -- I was going to ask you just very briefly this issue of standards that you have talked about, the fact that some track and field associations have implemented tougher standards for qualifying for Olympic Games than the actual Olympic
20 standards?

A. Yes, it is still --

Q. And the Olympic standard for the 100 meters for Seoul I believe was 10.44 to qualify?

25 A. I think it is -- at the time which supposed to be better. All I can tell you it was -- the

German qualifying standard was such higher that no sprinter has qualified.

5 Q. Well, I am advised, and perhaps you can correct me if I am wrong, and perhaps you don't have the information. The Olympic standard for the qualifying of the 100 meters was 10.44, and that the Canadian qualifying standard was 10.29?

10 A. It might be. I am sorry I can't confirm it out of my list here now that it is 10.44. It might be the B qualification, because I am wondering a bit about 10.44, but, anyway you can be right.

15 Q. Now, Mr. Heller, we have heard evidence, of course, a good deal of evidence about Mr. Johnson and his positive test in Seoul. And, of course, you are aware of most of the details surrounding that so far as they have been made public?

A. Yes.

20 Q. And we have heard evidence that after the first positive test with respect to Mr. Johnson, the B sample was taken and that the detection of a long-term endocrine profile relating to steroid use was used to confirm the positive test of Mr. Johnson, which Mr. Johnson himself has admitted so far as steroid use is concerned.

25 A. That it is done in respect to this

purpose, this I don't know. When you are telling me that they are going to find out the change of the endocrine profile. It might be, but this I don't know why they have tested the other sample in respect of this.

5 Q. We have heard evidence that that was part at least of the confirming information of the positive test involving Mr. Johnson?

A. Okay. This can be, but I cannot confirm this.

10 Q. Well, what I was leading to is I understand that you have had certain discussions with Mr. Donike --

A. Right.

15 Q. -- who is the Chairman of the medical committee of the IOC?

A. No, he is not the chairman.

Q. He is not the chairman?

A. I think he is a member.

Q. He is a member of the committee?

20 A. The Chairman is Prince Albert de Merode.

Q. Chairman of the subcommittee. Is there a subcommittee?

25 A. Okay. This can be, but you are talking about the Chairman of the --

Q. Subcommittee; I think they referred to the subcommittee on doping?

A. This could be.

5 Q. Yes. But, in any event, he is a gentleman we have already described who is with respect to -- who operates his lab in Cologne?

A. Yes.

10 Q. I think there are only a handful of labs that are recognized by the International Olympic Committee, are there not?

A. There are. I thought it was about roughly 8, 9 or 10 --

THE COMMISSIONER: We have had the numbers put in evidence, Mr. McMurtry.

15

MR. McMURTRY:

Q. Yes.

A. It seems to be some more.

20 Q. Now, I am advised that a number of the B samples as they have been described were sent to Mr. Donike's lab from Korea, according to the conversation that you had with Mr. Donike?

25 A. Well, I didn't get to know this not in that way you are talking about. I will -- let me tell you how it comes up that Donike and me were going into a talk.

This was on account of that commentary I was speaking on this Saturday night show. And part of this commentary was that I was saying that now the rumour is probably coming up again that there were other positive
5 tests in Seoul, and that they had been dropped by the IOC being afraid of getting a big blow up of the whole sports if it would be published, but it was qualified by me exactly by a rumour.

But anyway, this provokes Mr. Donike so
10 that he get in contact with me immediately after the show. And we had a first longer conversation. When I am saying immediately, I have to point out exactly he tried to get me, he didn't get me, and two days later we had a phone call.

And in that conversation, he told me that he
15 had the chance on account of one of the leading experts in the doping scene to test the urine samples of Seoul in respect to the question if there is to be -- if there is a chance to point out the drug abuse on account of the
20 change of the endocrine steroid profiles, not only on account of this.

Well, I would like to explain you something concerning about this because this is part of the second talk I had with him.

25 And he explained me in that way that he said

now we are able not only to find sources of drugs, steroids, or what else, if it is taken a short time before the urine sample is taken for the drug test, but it is also possible for a time period from five to eight years.

5 And I said to him, well, if this happens, then, of course, you have won the process, you can say, against the drug abuse because if it is possible to show up that someone has taken drugs during the last five or eight years, then that's what we need.

10 Okay. And another question by me was can you tell me what is the result of all that investigations you have done concerning this, because I was interesting to get to know if there is any percentage or a figure he could tell me concerning the question if he was able to
15 find out more than those who had been positive already in Seoul on account of the traditional way to investigate it.

 And he told me in this first talk it is up to 80 percent. And this was a big surprise for me, because I told him then you can throw all the others in to
20 the garbage because it doesn't make a sense to know already that someone has taken drugs for -- during the last five or eight years and that the percentage is such high. And, on the other hand, you only have a positive test of some athletes of all those who had been tested
25 over there in Seoul.

Q. So, could I just interrupt you for a moment just to clarify something. As I understand the 80 percent figure is related to the B samples that were sent to his lab from Korea?

5 A. I told you already, sir, I don't know if this investigations had been done on the B samples.

We didn't talk about the way he is going to find it out. We only talked about that he was able to test the urine samples from Seoul in respect to this question.

10

Q. What urine sample?

A. If it is the A sample or the B sample, this I don't know.

Q. All right. So, these urine samples were tested from Seoul?

15

A. Yes.

Q. A or B samples?

A. Yes.

Q. And these would be all of the urine samples from all of the gold, silver, and bronze medalists?

20

A. And the --

Q. Plus --

A. And the fourth who had been drawn.

25 Q. Plus a fourth person who was drawn from

the final.

And the 80 percent of those samples, according to their testing, according to what he told you, were positive so far as the long-term endocrine profile?

5 A. Okay. But he told me it is not possible to have any conclusion out of this because they are not able to point out exactly what kind of medicine they have -- the athletes, the positive athletes have taken.

10 So, that referring to the rules of the IOC, the doping rules of the IOC, they not can have any consequence of this because only for the case if you are using a drug which is on the doping list of the IOC then you are -- then you have to be sentenced. But if you
15 cannot point out exactly what drug you have taken, you cannot be sentenced.

And, therefore, he said it is not possible to have a conclusion for this --

 THE COMMISSIONER: In other words, he said
20 we can now detect that there had been some drug abuse by the system, but we can't tell what drug it was.

 THE WITNESS: Referring to the rules of the IOC.

 THE COMMISSIONER: Couldn't tell us one of
25 these banned substances at all --

THE WITNESS: Yes.

THE COMMISSIONER: Is that what you are saying?

THE WITNESS: Yes.

5 THE COMMISSIONER: Yes.

MR. McMURTRY:

Q. So, the 80 percent positive test of, those samples from Seoul, related to the use of drug, but the question is detecting whether they were banned or not banned drugs?

10

A. Yes.

Q. And I think the evidence that we had, Mr. Commissioner, perhaps you or your counsel could assist me, that insofar as the test involving Ben Johnson was that this long-term endocrine profile was used to corroborate the positive test?

15

THE COMMISSIONER: Well, not exactly, Mr. McMurtry, but we are going to have Dr. Dugal here and he will explain exactly what happened --

20

THE WITNESS: This indeed seems to be very important --

THE COMMISSIONER: -- unintentionally is not exactly what he said.

25 THE WITNESS: Yes. This seems to be

important because I not confirm the question concerning the B sample or the A sample, and I cannot confirm if there is a collaboration between the positive test of Ben Johnson's urine sample over there in Seoul and the
5 complementary test by Mr. Donike in Cologne. This I don't know.

We didn't talk about the case of Ben Johnson there.

10 MR. McMURTRY:

Q. No. But this information that was given to you by Mr. Donike, clearly it was of great interest to you?

A. Yes, it was of great interest to me,
15 but I think you know more, and I think you will ask me some more questions. If not I have to do -- complement the whole thing because before I came over here to Toronto, and as I tried to be as serious as it is possible, and I could expect that I might be going to be
20 witness over here, I gave Mr. Donike another call to get more details and informations about these fact I have got to know. In that way I have told it to you right now.

This call, this talk I had with Donike on Monday morning, the day before yesterday. And he told me
25 that I have got him in the wrong way getting to know the

80 percent.

He, indeed, said to me he never have said the 80 percent. I was, indeed, deeply surprised because I never have heard such a figure from someone else and, therefore, I didn't have a chance to scramble it up with something else.

Anyway, he told me he didn't say it or I misunderstood him this to fact one. And to fact two, this also was a big surprise for me. He changed his mind he, his statement concerning the time period they are able to test it now. Because before as I remembered it, he told me five to eight years and now he reduced it to three to six months.

This, of course, changed the situation indeed seriously.

And the last statement Donike gave to me at the phone on Monday is exactly what I am telling you now that there is no percentage and no chance to point out if someone has taken drug for a time period of five to eight years, but only three to six months.

But it continues, because, of course, I wasn't satisfied with this answer he gave me because normally I understand clearly, and we were talking in German, this my mother language, I think there is no problem for me to understand it.

And I asked to him or I requested him to correct me with my opinion about the 80 percent. And I told him that please let me know what percentage it is really so that I am going to consider it in my investigations now.

And he said to me, he cannot tell me for two reasons. The first reason is the IOC, who has the competence to publish those figures, didn't give him the allowance up to now to publish it.

It is up to them to decide we will publish those figures.

And the other thing is he did got prepare the statistic material so far so that is worth to publish it.

And I am asking further at what time you can reckon on having those figures published. He told me on October 11th and 12th of this year. They have a doping congress in Moscow, organized by the IOC. And at that time it can be that he is allowed to publish that figures.

It depends on the decision of the Chairman of Prince Albert de Merode from the doping commission of IOC.

Q. But in any event in your opinion there was no mistake you did not make any mistake in your recollection --

A. Yes, but --

Q. -- with respect to the 80 percent figure that he gave you and the five to eight years?

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A. Yes, that's exactly what I would have remembered, but I think, sir, you will understand me when I am going to be serious, I have to point out exactly that Donike has corrected his statement, and I'm going to
5 report Donike's statement exactly in that way he has done it on Monday morning.

Q. No, I'm sorry. I didn't mean to smile at you, but I just said at the term corrected. He has changed his statement.

10 A. Yes, okay.

Q. Whether the first statement was correct or not, --

A. It's a question of interpretation I think if you correct or if you make a new statement.

15 Q. Yes, and of course when we get to blood-doping, that's not detectable?

A. Right. It indeed was a question from me to Donike as well because, you know, the blood-doping is banned as well as the drug abuse by the IOC, but
20 overall in Seoul, there was no chance and in fact no control of blood-doping because they don't have the procedure. They didn't find out the procedure to control the blood-doping.

THE COMMISSIONER: I think there has been
25 some progress made since Seoul on blood-doping.

THE WITNESS: They didn't do tests.

THE COMMISSIONER: Not Seoul, no.

MR. McMURTRY:

5 Q. Well, I suggest to you what Mr. Donike
is concerned about with these endocrine profiles that he
described to you in his first conversation, if they were
to be used, he would wipe out a whole generation of elite
athletes in track and field. That was his concern, wasn't
10 it?

A. This is the conclusion. This is the
conclusion of this.

Q. Thank you very much.

THE COMMISSIONER: Thank you, Mr. McMurtry.
15 Do you have any questions?

MR. LEVINE: I think I'm next, sir. I'll
be just very short.

THE COMMISSIONER: I thought we would sit
through because we have no other witness, Mr. Armstrong?

20 MR. ARMSTRONG: Yes.

THE COMMISSIONER: We might as well sit
through I think.

MR. ARMSTRONG: Yes. Mr. Heller has to
catch an airplane and if he is --

25 THE WITNESS: I have to leave at least at

2:30.

---EXAMINATION BY MR. LEVINE:

Q. I will be very brief, sir. Mr. Heller,
5 my name is Lorne Levine on behalf of Dr. Astaphan. Just
to come upon -- the role of the doctors has been discussed
in West Germany among the athletes. Is it your experience
that it would be more common for the athletes to obtain
steroids from a doctor as opposed to the black market?

10 A. Yes. I would say more from the
doctors.

Q. And are you aware whether it's deemed
an unprofessional conduct for a doctor in West Germany to
prescribe these steroids?

15 A. No, I think these experts I mentioned
before normally are treating the members of the German
national team for more than 90% I would say. They are
high-qualified experts.

Q. And there has never been any case, as
20 far as you are aware, of West Germany of any doctor facing
discipline or losing a license because of the fact that he
prescribed steroids?

A. Not yet. No, not yet.

Q. And, sir, you've mentioned from your
25 experience that you are aware as to some of the steroids

that are used by the athletes in West Germany. Are you aware of a steroid called Miotolon?

A. No.

5 Q. Are you aware of a steroid called Furazabol?

A. Yes.

Q. And are you aware if that's a popular steroid that is used by West German athletes?

10 A. If I get to know names of those stuff, I think it's more by an incident. I cannot conclude by this that it is a very popular drug, steroid. I know the name. I've got to know it several times in the scene, but if it is very popular, I don't know.

15 Q. But it is a steroid that is used by West German athletes?

A. It is, yes.

Q. All right, thank you, sir.

THE COMMISSIONER: Any re-examination, Mr. Armstrong?

20

RE-EXAMINATION BY MR. ARMSTRONG:

25 Q. I just have one question. We will, of course, as the Commissioner has indicated, have the advantage of having Mr. Donike here later on, but just so that we have your evidence, before I go to your first

conversation with Mr. Donike or Professor Donike, the evidence that we have here in the Ben Johnson case is that the Canadian delegation to the IOC Medical Commission when they were arguing the Ben Johnson appeal or the Ben
5 Johnson case on the B sample was that they were told that the endocrine profile of Ben Johnson was suppressed or depressed. And therefore the conclusion was that that was an indication of long-term steroid use.

Now in your conversation with Professor
10 Donike, the first conversation, I understand that he changed it on Monday, but in the first conversation with him, did he indicate that in his examination of these samples from Seoul, that he was looking at depressed steroid profiles or endocrine profiles rather?

15 A. Yes, though not especially depressed those profiles, but the change -- basically the change of those profiles is an indication for drug abuse.

THE COMMISSIONER: The ratio?

THE WITNESS: I can't tell it exactly
20 because I've taken notes at the second talk with Professor Donike because when I was talking with him the first time, I couldn't see the relevance out of this and therefore this is only out of my reminiscation, but I think these marks and figures were so significant for me that I don't
25 forget it, and at the age of 42, normally you shouldn't

forget those significant marks within a time period of six or eight weeks.

THE COMMISSIONER: Even when you are a little older, you still can have a good memory.

5 THE WITNESS: Sir, you know what you are talking about.

MR. ARMSTRONG: Be careful.

10 THE WITNESS: No, but he told me the concentration of the endocrine steroids are changing if you are taking steroids. At first and second, the relation of the profiles of the endocrine steroids to another is changing as well. Whatever you have to understand by this, only in reporting exactly in that way, and this indeed were the words he has used and we both
15 together were fixing a slogan to make it understandable for the public how it works to find out the change of whatever.

Q. And then -- well, I think I'll leave it there.

20 THE COMMISSIONER: Well, thank you very much, Mr. Heller, for your assistance, and we appreciate your helping us. You're going back this afternoon?

THE WITNESS: Yes, today.

25 THE COMMISSIONER: Have a good flight.
Thank you.

THE WITNESS: Thank you.

MR. ARMSTRONG: Thank you, Mr. Heller.

That, as I indicated earlier, is the only witness for
today. We will be back -- we will have one witness
tomorrow morning.

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THE COMMISSIONER: Tomorrow morning at 10
o'clock. Thank you.

10

---Whereupon the proceedings were adjourned to Wednesday,
June 15, 1989 at ten o'clock.

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